THE ONE HUNDRED TWENTIETH DAY

CARSON CITY (Monday), June 6, 2011

Assembly called to order at 12:02 a.m.
Mr. Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, April Mastroluca.

Heavenly Father, as You have said before, I will say again: "Well done, good and faithful servant." Please bless this day and bless the work we are about to do.

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.

GENERAL FILE AND THIRD READING

Senate Bill No. 159.

Bill read third time.

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

Amendment No. 958.

AN ACT relating to ~~[offenders;]~~ **convicted persons;** requiring the Director of the Department of Corrections to provide certain information to an offender upon his or her release, including information regarding employment assistance; ~~[authorizing a court to require the earnings of a probationer to be held in trust for certain purposes;]~~ **providing for the waiver of fees for the issuance of certain forms of identifying information for certain persons released from prison;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Corrections to provide certain information to an offender upon the offender's release from prison. (NRS 209.511) **Section 1** of this bill requires the Director to provide such an offender with: (1) information relating to assistance for obtaining employment, including information regarding obtaining bonding for employment; and (2) information and reasonable assistance relating to

acquiring a valid driver's license or identification card to enable the offender to obtain employment if the offender requests such information and assistance and is eligible to acquire a driver's license or identification card.

Existing law provides for the waiver of certain fees relating to the issuance of certified copies of birth certificates and duplicate drivers' licenses and identification cards to homeless persons. (NRS 440.175, 440.700, 483.417, 483.825) Sections 3-6 of this bill provide for a similar waiver of such fees for persons who were released from prison within the immediately preceding 90 days. Section 7 of this bill requires the Department of Motor Vehicles to encourage each vendor that has entered into an agreement with the Department to produce photographs for drivers' licenses and identification cards to waive the cost charged to the Department to produce the photographs for such persons who were released from prison.

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

Section 1. NRS 209.511 is hereby amended to read as follows:

209.511 1. When an offender is released from prison by expiration of his or her term of sentence, by pardon or by parole, the Director:

(a) May furnish the offender with a sum of money not to exceed $100, the amount to be based upon the offender's economic need as determined by the Director;

(b) Shall give the offender notice of the provisions of chapter 179C of NRS and NRS 202.357 and 202.360;

(c) Shall require the offender to sign an acknowledgment of the notice required in paragraph (b);

(d) Shall give the offender notice of the provisions of NRS 179.245 and the provisions of NRS 213.090, 213.155 or 213.157, as applicable;

(e) ***Shall provide the offender with information relating to obtaining employment, including, without limitation, any programs which may provide bonding for an offender entering the workplace and any organizations which may provide employment or bonding assistance to such a person;***

(f) Shall provide the offender with information and reasonable assistance relating to acquiring a valid driver's license or identification card to enable the offender to obtain employment, if the offender:

(1) Requests such information and assistance; and

(2) Is eligible to acquire a valid driver's license or identification card from the Department of Motor Vehicles;

(g) May provide the offender with clothing suitable for reentering society;

~~[(f)]~~ ***(h)*** May provide the offender with the cost of transportation to his or her place of residence anywhere within the continental United States, or to the place of his or her conviction;

~~[(g)]~~ ***(i)*** May, but is not required to, release the offender to a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS; and

~~[(h)]~~ ***(j)*** Shall require the offender to submit to at least one test for exposure to the human immunodeficiency virus.

2. The costs authorized in paragraphs (a) ~~[, (e), (f)]~~ ***, (g)*** ~~[and (h)]~~ ***, (h) and (j)*** of subsection 1 must be paid out of the appropriate account within the State General Fund for the use of the Department as other claims against the State are paid to the extent that the costs have not been paid in accordance with subsection 5 of NRS 209.221 and NRS 209.246.

3. As used in this section, "facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.

Sec. 2. (Deleted by amendment.)

Sec. 3. **NRS 440.175 is hereby amended to read as follows:**

440.175 1. Upon request, the State Registrar may furnish statistical data to any federal, state, local or other public or private agency, upon such terms or conditions as may be prescribed by the Board.

2. No person may prepare or issue any document which purports to be an original, certified copy, certified abstract or official copy of:

(a) A certificate of birth, death or fetal death, except as authorized in this chapter or by the Board.

(b) A certificate of marriage, except a county clerk, county recorder or a person so required pursuant to NRS 122.120.

(c) A decree of divorce or annulment of marriage, except a county clerk or the judge of a court of record.

3. A person or governmental organization which issues certified or official copies pursuant to paragraph (a) of subsection 2 shall:

(a) Not charge a fee for issuing a certified or official copy of a certificate of birth to ~~[a]~~ **:**

(1) A homeless person who submits a signed affidavit on a form prescribed by the State Registrar stating that the person is homeless.

(2) A person who submits documentation from the Department of Corrections verifying that the person was released from prison within the immediately preceding 90 days.

(b) Remit to the State Registrar fees collected which are charged in an amount established by the State Registrar by regulation:

(1) For each registration of a birth or death in its district.

(2) For each copy issued of a certificate of birth in its district, other than a copy issued pursuant to paragraph (a).

(3) For each copy issued of a certificate of death in its district.

Sec. 4. **NRS 440.700 is hereby amended to read as follows:**

440.700 1. Except as otherwise provided in this section, the State Registrar shall charge and collect a fee in an amount established by the State Registrar by regulation:

(a) For searching the files for one name, if no copy is made.

(b) For verifying a vital record.

(c) For establishing and filing a record of paternity, other than a hospital-based paternity, and providing a certified copy of the new record.

(d) For a certified copy of a record of birth.

(e) For a certified copy of a record of death originating in a county in which the board of county commissioners has not created an account for the support of the office of the county coroner pursuant to NRS 259.025.

(f) For a certified copy of a record of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025.

(g) For correcting a record on file with the State Registrar and providing a certified copy of the corrected record.

(h) For replacing a record on file with the State Registrar and providing a certified copy of the new record.

(i) For filing a delayed certificate of birth and providing a certified copy of the certificate.

(j) For the services of a notary public, provided by the State Registrar.

(k) For an index of records of marriage provided on microfiche to a person other than a county clerk or a county recorder of a county of this State.

(l) For an index of records of divorce provided on microfiche to a person other than a county clerk or a county recorder of a county in this State.

(m) For compiling data files which require specific changes in computer programming.

2. The fee collected for furnishing a copy of a certificate of birth or death must include the sum of $3 for credit to the Children's Trust Account created by NRS 432.131.

3. The fee collected for furnishing a copy of a certificate of death must include the sum of $1 for credit to the Review of Death of Children Account created by NRS 432B.409.

4. The State Registrar shall not charge a fee for furnishing a certified copy of a record of birth to ~~[a]~~ **:**

(a) A homeless person who submits a signed affidavit on a form prescribed by the State Registrar stating that the person is homeless.

(b) A person who submits documentation from the Department of Corrections verifying that the person was released from prison within the immediately preceding 90 days.

5. The fee collected for furnishing a copy of a certificate of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025 must include the sum of $1 for credit to the account for the support of the office of the county coroner of the county in which the certificate originates.

6. Upon the request of any parent or guardian, the State Registrar shall supply, without the payment of a fee, a certificate limited to a statement as to the date of birth of any child as disclosed by the record of such birth when the certificate is necessary for admission to school or for securing employment.

7. The United States Bureau of the Census may obtain, without expense to the State, transcripts or certified copies of births and deaths without payment of a fee.

Sec. 5. **NRS 483.417 is hereby amended to read as follows:**

483.417 1. The Department shall waive the fee prescribed by NRS 483.410 and the increase in the fee required by NRS 483.347 not more than one time for furnishing a duplicate driver's license to ~~[a]~~ **:**

(a) A homeless person who submits a signed affidavit on a form prescribed by the Department stating that the person is homeless.

(b) A person who submits documentation from the Department of Corrections verifying that the person was released from prison within the immediately preceding 90 days.

2. A vendor that has entered into an agreement with the Department to produce photographs for drivers' licenses pursuant to NRS 483.347 may waive the cost it charges the Department to produce the photograph of a homeless person ***or person released from prison*** for a duplicate driver's license.

3. If the vendor does not waive pursuant to subsection 2 the cost it charges the Department and the Department has waived the increase in the fee required by NRS 483.347 for a duplicate driver's license furnished to a ~~[homeless]~~ person pursuant to subsection 1, the ~~[homeless]~~ person shall reimburse the Department in an amount equal to the increase in the fee required by NRS 483.347 if the ~~[homeless]~~ person:

(a) Applies to the Department for the renewal of his or her driver's license; and

(b) Is employed at the time of such application.

4. The Department may accept gifts, grants and donations of money to fund the provision of duplicate drivers' licenses without a fee to ~~[homeless]~~ persons ~~[.]~~ ***pursuant to subsection 1.***

Sec. 6. **NRS 483.825 is hereby amended to read as follows:**

483.825 1. The Department shall waive the fee prescribed by NRS 483.820 and the increase in the fee required by NRS 483.347 not more than one time for furnishing a duplicate identification card to ~~[a]~~ **:**

(a) A homeless person who submits a signed affidavit on a form prescribed by the Department stating that the person is homeless.

(b) A person who submits documentation from the Department of Corrections verifying that the person was released from prison within the immediately preceding 90 days.

2. A vendor that has entered into an agreement with the Department to produce photographs for identification cards pursuant to NRS 483.347 may waive the cost it charges the Department to produce the photograph of a homeless person ***or person released from prison*** for a duplicate identification card.

3. If the vendor does not waive pursuant to subsection 2 the cost it charges the Department and the Department has waived the increase in the fee required by NRS 483.347 for a duplicate identification card furnished to a ~~[homeless]~~ person pursuant to subsection 1, the ~~[homeless]~~ person shall reimburse the Department in an amount equal to the increase in the fee required by NRS 483.347 if the ~~[homeless]~~ person:

(a) Applies to the Department for the renewal of his or her identification card; and

(b) Is employed at the time of such application.

4. The Department may accept gifts, grants and donations of money to fund the provision of duplicate identification cards without a fee to ~~[homeless]~~ persons ~~[.]~~ ***pursuant to subsection 1.***

5. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.

Sec. 7. **The Department of Motor Vehicles shall encourage each vendor that has entered into an agreement with the Department to produce photographs for drivers' licenses and identification cards pursuant to NRS 483.347 to waive the cost that the vendor charges the Department to produce photographs for duplicate drivers' licenses or identification cards furnished to persons released from prison within the immediately preceding 90 days pursuant to subsection 2 of NRS 483.417, as amended by section 5 of this act, and subsection 2 of NRS 483.825, as amended by section 6 of this act.**

Sec. 8. **1. This section and section 1 of this bill become effective on October 1, 2011.**

2. Sections 3 to 7, inclusive, of this act become effective on February 1, 2012.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 212.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 947.

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

Legislative Counsel's Digest:

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

Existing administrative regulations of the Department of Education set forth certain restrictions on contracts and proposed contracts between a charter school or proposed charter school and a contractor or an educational management organization. (NAC 386.403) **Section 35.7** of this bill codifies

into statute the provisions of this regulation. **Section 35.7** also defines educational management organization for purposes of that section.

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

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

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

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

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

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

3. Increase the opportunities for learning for all pupils;

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

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

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

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

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

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

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

385.005 1. The Legislature reaffirms its intent that public education in the State of Nevada is essentially a matter for local control by local school

districts. The provisions of this title are intended to reserve to the boards of trustees of local school districts within this state such rights and powers as are necessary to maintain control of the education of the children within their respective districts. These rights and powers may only be limited by other specific provisions of law.

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

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

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

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

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

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

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school ~~**[**in**]**~~ ***sponsored by*** the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for

each school in the district, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district, and each grade in which the examinations were administered:

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

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

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

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

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

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

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

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

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

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

(II) ~~[On and after July 1, 2006, the]~~ ***The*** number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term

substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

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

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

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

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

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

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

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

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

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

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

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

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

(3) Withdraw from school to attend another school.

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

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

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

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

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

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

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

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

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

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

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

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district.

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

(s) For each high school in the district, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

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

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

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

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

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

(2) An adjusted diploma.

(3) A certificate of attendance.

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

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

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

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement

pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. ***The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall, on or before August 15 of each year, prepare an annual report of accountability of the charter schools sponsored by the State Public Charter School Authority or institution, as applicable, concerning the accountability information prescribed by the Department pursuant to this section. The Department, in consultation with the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school, shall prescribe by regulation the information that must be prepared by the State Public Charter School Authority and institution, as applicable, which must include, without limitation, the information contained in paragraphs (a) to (ee), inclusive, of subsection 2, as applicable to charter schools. The Department shall provide for public dissemination of the annual report of accountability prepared pursuant to this section in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the Department.***

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

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

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

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

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

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

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

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

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

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

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

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

(7) Charter School Association of Nevada,

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

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

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

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

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

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

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

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

(1) Governor;
(2) State Board;
(3) Department;
(4) Committee; and
(5) Bureau.

(b) ~~[Provide]~~ ***The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide*** for public dissemination of the annual report of accountability prepared pursuant to subsection 2 ***or 3, as applicable,*** in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, ***the State Public Charter School Authority or the institution,*** if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district.

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

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

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

11. As used in this section:

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

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

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

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

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

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

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

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

2. The summary prepared pursuant to subsection 1 must:

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

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

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

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

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

(1) Governor;
(2) State Board;
(3) Department;
(4) Committee;
(5) Bureau; and
(6) Schools within the school district ~~[.]~~ ***or charter schools, as applicable.***

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

~~[5. The board of trustees of each school district shall report the information required by this section for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]~~

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

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

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

(a) A review and analysis of the data pertaining to the school upon which the report required pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as***

applicable, is based and a review and analysis of any data that is more recent than the data upon which the report is based.

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

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

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

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

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

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

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

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

(I) The curriculum appropriate to improve achievement;

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

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

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

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

(4) Manage effectively the discipline of pupils; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

applicable, shall approve the plan or the revised plan if it meets the requirements of this section.

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

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee;

(f) Bureau; and

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

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

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

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

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

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

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

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

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

4. On or before September 7 of each year:

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

(1) Department;

(2) Bureau; and

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

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

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

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

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

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

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

(1) Annual report of accountability prepared by:

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

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

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

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

(I) The State Board pursuant to NRS 385.34691;

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

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

plan for the schools identified by the Bureau, if any, implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, as applicable.

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

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

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

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

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

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

➥ whichever is applicable for the school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

school implemented pursuant to NRS 385.37607, whichever is applicable for the school. The written revisions or recommendations, as applicable, must:

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

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

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

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

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

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

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

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

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

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

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

(1) Submit the progress report to the Department.

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

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

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

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

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

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

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

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

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

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

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

(1) The name of the program;

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

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

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

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

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

(1) The financial resources of the school;

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

(3) The curriculum of the school;

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

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

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

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

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

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

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

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

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

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

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

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

(a) Principal of the school;

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

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

(d) Department; and

(e) Bureau.

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

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

(a) Principal of the charter school;

(b) Sponsor of the charter school;

(c) Governing body of the charter school;

(d) Department; and

(e) Bureau.

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

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

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

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

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the State ~~[Board]~~ ***Public Charter School Authority*** or by a college or university within the Nevada System of Higher Education, the Department shall make a determination for the charter school in consultation with the State ~~[Board]~~ ***Public Charter School Authority*** or the institution ***within the Nevada System of Higher Education*** that sponsors the charter school, as applicable. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before June 15 or June 30 of each year, as applicable, the Department shall transmit:

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

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

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

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

regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school shall be deemed to have made adequate yearly progress even though a group identified in paragraph (b) of subsection 1 of NRS 385.361 did not satisfy the annual measurable objectives of the State Board.

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

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

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

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

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

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

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

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

8. As used in this section:

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

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

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

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

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

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

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

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

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

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

2. Before making a final designation for a school, the board of trustees of the school district or the Department, as applicable, shall provide the school an opportunity to review the data upon which the preliminary designation is based and to present evidence in the manner set forth in 20 U.S.C. § 6316(b)(2) and the regulations adopted pursuant thereto. If the school is a public school of the school district or a charter school sponsored by the board

of trustees, the board of trustees of the school district shall, in consultation with the Department, make a final determination concerning the designation for the school on August 1. If the school is a charter school sponsored by the State ~~[Board]~~ ***Public Charter School Authority*** or by a college or university within the Nevada System of Higher Education, the Department shall make a final determination concerning the designation for the school on August 1.

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

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

(1) Governor;

(2) State Board;

(3) Committee; and

(4) Bureau.

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

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

(2) Board of trustees of the school district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If the school is a charter school:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a

provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

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

(b) If the school is a charter school:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The State Board shall prescribe by regulation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau;

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

(e) Principal of the school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The board of trustees of a school district shall grant a delay from the development of a plan for restructuring for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the board of trustees shall immediately develop and

proceed with the implementation of the plan for restructuring the school as if the delay never occurred.

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

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

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau;

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

(e) Principal of the school.

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

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

2. The ***State Public Charter School Authority, the*** Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action, consequences or sanctions, or any combination thereof, pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, ***the State Public Charter School Authority,*** the Department or the board of trustees, as applicable, may proceed with corrective action, consequences or sanctions, or any

combination thereof, for the school, as appropriate, pursuant to the provisions of NRS 385.37603 and 385.37605 as if the delay never occurred.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745.

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

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

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

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

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

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

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

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

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

~~[(b)]~~ ***(c)*** The board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with consequences

or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If the school is a charter school:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The sponsor of a charter school shall grant a delay from the imposition of a plan for restructuring for a school, including, without limitation, the development and implementation of a plan for restructuring, for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C.

§ 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

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

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

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

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

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

385.620 The Advisory Council shall:

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

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

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

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

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) One member appointed by the Charter School Association of Nevada or its successor organization.

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

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

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

(c) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance or accounting, or both;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology; and

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

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

3. Each member of the State Public Charter School Authority must be a resident of this State.

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

5. The members of the State Public Charter School Authority shall select a Chair and Vice Chair from among its members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

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

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

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

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

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

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

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

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

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

Sec. 33. *The Director shall:*

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

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

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

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

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

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

accordance with the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to 35.7, inclusive, of this act.

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

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

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

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

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

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

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

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

Sec. 35.5. ***1. The State Public Charter School Authority is hereby deemed a local educational agency for the purpose of directing the proportionate share of any money available from federal and state***

categorical grant programs to charter schools which are sponsored by the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that are eligible to receive such money. A charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 37. (Deleted by amendment.)

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

386.515 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district. An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

2. The State ~~[Board]~~ ***Public Charter School Authority*** shall sponsor charter schools whose applications have been approved by the State ~~[Board]~~ ***Public Charter School Authority*** pursuant to NRS 386.525. Except as otherwise provided by specific statute, if the State ~~[Board]~~ ***Public Charter School Authority*** sponsors a charter school, the State ~~[Board or the Department]~~ ***Public Charter School Authority*** is responsible for the evaluation, monitoring and oversight of the charter school.

3. A college or university within the Nevada System of Higher Education may sponsor charter schools.

4. Each sponsor of a charter school shall carry out the following duties and powers:

(a) Evaluating applications to form charter schools as prescribed by NRS 386.525;

(b) Approving applications to form charter schools that the sponsor determines are high quality, meet the identified educational needs of pupils and will serve to promote the diversity of public educational choices in this State;

(c) Declining to approve applications to form charter schools that do not satisfy the requirements of NRS 386.525;

(d) Negotiating and executing written charters pursuant to NRS 386.527;

(e) Monitoring, in accordance with NRS 386.500 to 386.610, inclusive, and sections 26 to 35.7, inclusive, of this act, and in accordance with the terms and conditions of the applicable written charter, the performance and compliance of each charter school sponsored by the entity; and

(f) Determining whether each written charter of a charter school that the entity sponsors merits renewal or whether the renewal of the written charter should be denied or the written charter should be revoked in accordance with NRS 386.530 or 386.535, as applicable.

5. Each sponsor of a charter school shall develop policies and practices that are consistent with state laws and regulations governing charter schools. In developing the policies and practices, the sponsor shall review and evaluate nationally recognized policies and practices for sponsoring organizations of charter schools. The policies and practices must include, without limitation:

(a) The organizational capacity and infrastructure of the sponsor for sponsorship of charter schools, which must not be described as a limit on the number of charter schools the sponsor will approve;

(b) The procedure for evaluating charter school applications in accordance with NRS 386.525;

(c) A description of how the sponsor will maintain oversight of the charter schools it sponsors; and

(d) A description of the process of evaluation for charter schools it sponsors in accordance with NRS 386.610.

6. Evidence of material or persistent failure to carry out the powers and duties of a sponsor prescribed by this section constitutes grounds for revocation of the entity's authority to sponsor charter schools.

Sec. 39. NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of at least three teachers, as defined in subsection 4. In addition to the teachers who serve, the committee may consist of:

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

➥ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

2. ~~[Before a committee to form a charter school may submit an application to the board of trustees of a school district, the Subcommittee on Charter Schools, the State Board or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The]~~ ***An*** application ***to form a charter school*** must include all information prescribed by the Department by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive ~~[.]~~ ***, and sections 26 to 35.7, inclusive, of this act.***

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the ~~[opportunities for pupils to learn;]~~ ***academic achievement of pupils;***

(2) Encouraging the use of effective ***and innovative*** methods of teaching;

(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability ***and transparency*** of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates of enrollment for the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method of selecting the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

(p) A statement of whether the charter school will enroll pupils who are in a particular category of at-risk pupils before enrolling other children who are eligible to attend the charter school pursuant to NRS 386.580 and the method for determining eligibility for enrollment in each such category of at-risk pupils served by the charter school.

3. The ***proposed sponsor of a charter school may request that the Department review an application before review by the proposed sponsor to determine whether the application is complete. Upon such a request, the*** Department shall review an application to form a charter school to determine whether it is complete. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall deny the application. The Department shall provide written notice to the applicant ***and the proposed sponsor of the charter school*** of its ~~[~~approval or denial of~~]~~ ***determination of whether*** the application ~~[.]~~ ***is complete.*** If the Department ~~[~~denies~~]~~ ***determines*** an application ~~[.]~~ ***is not complete,*** the Department shall include in the written notice the reason for ~~[~~the denial~~]~~ ***its determination*** and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application. ***If the Department determines an application is complete, the Department shall transmit the application to the proposed sponsor for review pursuant to NRS 386.525.***

4. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➥ The term does not include a person who is employed as a substitute teacher.

Sec. 40. NRS 386.525 is hereby amended to read as follows:

386.525 1. ~~[~~Upon approval of an application by the Department, a~~]~~ ***Except as otherwise provided in this subsection, a*** committee to form a charter school may submit the application to the ~~[~~board of trustees of the school district in which the~~]~~ proposed ***sponsor of the*** charter school ***.*** ~~[~~will be located, a college or university within the Nevada System of Higher Education or directly to the Subcommittee on Charter Schools.~~]~~ ***If the proposed sponsor of a charter school requested that the Department review the application pursuant to NRS 386.520 and the Department determined that the application was not complete pursuant to that section, the application may not be submitted to the proposed sponsor for review pursuant to this section. If an application proposes to convert an existing***

public school, homeschool or other program of home study into a charter school, the proposed sponsor shall deny the application.

2. If the board of trustees of a school district ~~[,]~~ ***or*** a college or a university ~~[,]~~ ***within the Nevada System of Higher Education,*** as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. ***If the proposed sponsor requested that the Department review the application pursuant to NRS 386.520, the proposed sponsor shall be deemed to receive the application pursuant to this subsection upon transmittal of the application from the Department.*** The board of trustees, the college ~~[,]~~ ***or*** the university ***,*** ~~[or the Subcommittee on Charter Schools,]~~ as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, ***and sections 26 to 35.7, inclusive, of this act*** and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the Department.

~~[2.]~~ ***3.*** The Department shall assist the board of trustees of a school district, the college or the university, as applicable, in the review of an application. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection ~~[1.]~~ ***2.*** The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

~~[3.]~~ ***4.*** If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[4.]~~ ***5.*** If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection ~~[3,]~~ ***4,*** the applicant may submit a written request for sponsorship by the State ~~[Board to the Subcommittee on Charter Schools created pursuant to NRS 386.507]~~ ***Public Charter School Authority*** not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

~~[~~5.~~]~~ ***6.*** If the ~~[~~Subcommittee on Charter Schools~~]~~ ***State Public Charter School Authority*** receives an application pursuant to subsection 1 or ~~[~~4,~~]~~ ***5,*** it shall hold a meeting to consider the application. ***If the State Public Charter School Authority requested that the Department review the application pursuant to NRS 386.520, the State Public Charter School Authority shall be deemed to receive the application pursuant to this subsection upon transmittal of the application from the Department.*** The meeting must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~[~~Subcommittee~~]~~ ***State Public Charter School Authority*** shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection ~~[~~1. The Subcommittee may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.

6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1.~~]~~ ***2. The Department shall assist the State Public Charter School Authority in the review of an application.*** The State ~~[~~Board~~]~~ ***Public Charter School Authority*** may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection ~~[~~1.~~]~~ ***2.*** Not more than 30 days after the meeting, the State ~~[~~Board~~]~~ ***Public Charter School Authority*** shall provide written notice of its determination to the applicant.

7. If the State ~~[~~Board~~]~~ ***Public Charter School Authority*** denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

8. If the State ~~[~~Board~~]~~ ***Public Charter School Authority*** denies an application after it has been resubmitted pursuant to subsection 7, the applicant may, not more than 30 days after the receipt of the written notice from the State ~~[~~Board,~~]~~ ***Public Charter School Authority,*** appeal the final determination to the district court of the county in which the proposed charter school will be located.

9. On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the State ~~[~~Board,~~]~~ ***Public Charter School Authority,*** a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 41. NRS 386.527 is hereby amended to read as follows:

386.527 1. If the State ~~[~~Board,~~]~~ ***Public Charter School Authority,*** the board of trustees of a school district or a college or university within the Nevada System of Higher Education approves an application to form a charter school, it shall grant a written charter to the applicant. The State ~~[~~Board,~~]~~ ***Public Charter School Authority,*** the board of trustees, the college or the university, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the State ~~[~~Board~~]~~ ***Public Charter School Authority*** approves the application:

(a) The State ~~[~~Board~~]~~ ***Public Charter School Authority*** shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board ***, the State Public Charter School Authority*** nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State Board shall adopt:

(a) ~~[~~An application~~]~~ ***A*** process for a charter school that requests a change in the sponsorship of the charter school, which must not require the ~~[~~applicant~~]~~ ***charter school*** to undergo ***all*** the requirements of an initial application to form a charter school; and

(b) Objective criteria for the conditions under which such a request may be granted.

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the State ~~[Board]~~ ***Public Charter School Authority*** or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate. If the proposed amendment complies with the provisions of ~~[this section,]~~ NRS 386.500 to 386.610, inclusive, ***and sections 26 to 35.7, inclusive, of this act,*** and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.

7. The State Board 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. 42. (Deleted by amendment.)

Sec. 43. 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~~]~~ ***State*** ~~[~~Charter Schools~~]~~ ***Public Charter School Authority*** and a college or university within the Nevada System of Higher Education, and the contents of the application;

(c) The process for submission of an application to renew a written charter; and

(d) The criteria and type of investigation that must be applied by the board of trustees, ~~[~~the Subcommittee on Charter Schools,~~]~~ the State ~~[~~Board~~]~~ ***Public***

Charter School Authority and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school or an application to renew a written charter.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, ***and sections 26 to 35.7, inclusive, of this act,*** including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

(b) Requirements for performance audits and financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(c) Requirements for performance audits every 3 years and financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

Sec. 44. (Deleted by amendment.)

Sec. 45. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department ***pursuant to NRS 386.540*** contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation; ***and***

(d) ~~[The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and~~

~~(e)]~~ At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department 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]~~ ***Department*** pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of paragraphs (a), (c) ~~[,]~~ ***and*** (d) ~~[and (e)]~~ of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 45.5. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers. ***If the board of trustees of a school district or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the governing body and the sponsor must enter into a service agreement pursuant to section 35.3 of this act before the provision of such services.***

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in sports at the public school that he or she would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➥ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 46. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the

school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in an account with a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of each school quarter, the ~~[sponsor of a charter school may request reimbursement from the governing body of the charter school]~~ ***Superintendent of Public Instruction shall pay to the sponsor of a charter school one-quarter of the yearly sponsorship fee*** for the administrative costs associated with sponsorship for that school quarter ~~[if the sponsor provided administrative services during that school quarter. The request must include an itemized list of those costs. Unless a delay is granted pursuant to subsection 9, upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection 9, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.~~

~~(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.~~

~~4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money~~

~~that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.~~

~~(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.~~

~~5.~~ ***, which must be deducted from the quarterly apportionment to the charter school made pursuant to NRS 387.124. Except as otherwise provided in subsection 4, the yearly sponsorship fee for the sponsor of a charter school must be in an amount of money not to exceed 2 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124.***

4. If the governing body of a charter school satisfies the requirements of this subsection, the governing body may submit a request to the sponsor of the charter school for approval of a sponsorship fee in an amount that is less than 2 percent but at least 1 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124. The sponsor of the charter school shall approve such a request if the sponsor of the charter school determines that the charter school satisfies the requirements of this subsection. If the sponsor of the charter school approves such a request, the sponsor shall provide notice of the decision to the governing body of the charter school and the Superintendent of Public Instruction. If the sponsor of the charter school denies such a request, the governing body of the charter school may appeal the decision of the sponsor to the Superintendent of Public Instruction. Upon appeal, the sponsor of the charter school and the governing body of the charter school are entitled to present evidence. The decision of the Superintendent of Public Instruction on the appeal is final and is not subject to judicial review. The governing body of a charter school may submit a request for a reduction of the sponsorship fee pursuant to this subsection if:

(a) The charter school satisfies the requirements of subsection 1 of NRS 386.5515; and

(b) There has been a decrease in the duties of the sponsor of the charter school that justifies a decrease in the sponsorship fee.

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]~~ ***Public Charter School Authority*** may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

~~[9. The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation, documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.]~~

Sec. 47. (Deleted by amendment.)

Sec. 48. (Deleted by amendment.)

Sec. 49. (Deleted by amendment.)

Sec. 50. NRS 386.605 is hereby amended to read as follows:

386.605 1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is required pursuant to ~~[subsection 2 of]~~ NRS 385.347 to ~~[the board of trustees of the school district in which the charter school is located]~~ ***the sponsor of the charter school*** for inclusion in the report ~~[of the school district]~~ ***required*** pursuant to that section. The information must be submitted ~~[by the charter school]~~ in a format prescribed by the ~~[board of trustees.]~~ ***sponsor of the charter school.***

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218E.625 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted ~~[by charter schools]~~ pursuant to this section and pursuant to NRS 385.357, 385.3745 or 385.3746, whichever is applicable for the school, consult with ***the sponsors of the charter schools and*** the governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 51. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, ~~[if the State Board, the board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the Department, the board of trustees or the institution, as applicable,]~~ ***the sponsor of a charter school*** shall submit a written report to the ~~[State Board.]~~ ***Department.*** The written report must include:

(a) An evaluation of the progress of each charter school ~~[sponsored by the State Board, the board of trustees or the institution, as applicable,]~~ ***that it sponsors*** in achieving ~~[its]~~ ***the*** educational goals and objectives ~~[.]~~ ***of the charter school.***

(b) A description of all administrative support and services provided by the ~~[Department, the school district or the institution, as applicable,]~~ ***sponsor*** to the charter school ~~[.]~~ ***, including, without limitation, an itemized accounting for the costs of the support and services.***

(c) An identification of each charter school approved by the sponsor:

(1) Which has not opened and the scheduled time for opening, if any;

(2) Which is open and in operation;

(3) Which has transferred sponsorship;

(4) Whose written charter has been revoked by the sponsor;

(5) Whose written charter has not been renewed by the sponsor; and

(6) Which has voluntarily ceased operation.

(d) A description of the strategic vision of the sponsor for the charter schools that it sponsors and the progress of the sponsor in achieving that vision.

(e) A description of the services provided by the sponsor pursuant to a service agreement entered into with the governing body of the charter school pursuant to section 35.3 of this act, including an itemized accounting of the actual costs of those services.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 52. NRS 386.650 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The Superintendent of Public Instruction shall:

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

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

(c) Prescribe the format for the data;

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

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

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

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

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

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

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

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

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

Sec. 53. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend

a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus ***the sponsorship fee prescribed by NRS 386.570 and minus*** all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the State ~~[Board]~~ ***Public Charter School Authority*** or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus ***the sponsorship fee prescribed by NRS 386.570 and minus*** all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part-time in the program. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the

apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. The apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

8. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, the State Controller may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 54. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347 ~~[.]~~ ***and similar information included in the annual report of accountability information prepared by the State Public Charter School Authority and a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347;***

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➥ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the

Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 55. NRS 392.128 is hereby amended to read as follows:

392.128 1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

(a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of the school district ***or the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school*** pursuant to subsection ~~[7.]~~ ***8.*** of NRS 385.347;

(b) Identify factors that contribute to the truancy of pupils in the school district;

(c) Establish programs to reduce the truancy of pupils in the school district, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;

(d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chair of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the chair of an advisory board divides the advisory board into subcommittees, the chair shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas within the school district in which community services are not available to assist pupils who are truant. As used in this subsection, "family resource center" has the meaning ascribed to it in NRS 430A.040.

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

Sec. 56. NRS 218E.615 is hereby amended to read as follows:

218E.615 1. The Committee may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;

(2) Legislative measures regarding education;

(3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and the annual measurable objectives established by the State Board of Education pursuant to NRS 385.361;

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

(6) The program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The Committee shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, ***State Public Charter School Authority,*** school districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

(d) For the purposes set forth in NRS 385.3785, recommend to the Commission on Educational Excellence created by NRS 385.3784 programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 57. NRS 386.507 and 386.508 are hereby repealed.

Sec. 58. The Department of Education shall, on or before October 1, 2011, transfer to the Account for the State Public Charter School Authority created by section 35 of this act any unexpended money collected by the Department pursuant to NRS 386.570 for reimbursement of the administrative costs associated with sponsorship of charter schools sponsored by the State Board of Education.

Sec. 59. Notwithstanding the provisions of section 31 of this act to the contrary, on October 1, 2011, the Governor shall appoint a Director of the State Public Charter School Authority to a term of 3 years. The Director appointed by the Governor must have a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State. Upon the expiration of the term of the Director or if a vacancy occurs before the expiration of the term, the State Public Charter School Authority shall appoint the Director in accordance with section 31 of this act.

Sec. 60. ~~[1.]~~ To assist the State Public Charter School Authority created by section 28.5 of this act in carrying out its duties and responsibilities, ~~[the Director of the State Public Charter School Authority shall, on or before January 1, 2012:~~

~~(a) Hire an administrative assistant and an accounting assistant; and~~

~~(b) Hire an educational consultant.~~

~~2. On January 1, 2012, one management analyst position in~~ the Department of Education **shall, on or before January 1, 2012, transfer the following positions in the Department of Education to the State Public Charter School Authority:**

1. One management analyst position;

2. One administrative assistant position; and

3. Up to three educational program professionals with job duties and responsibilities that relate to charter schools **.** ~~must be transferred to the State Public Charter School Authority.~~

Sec. 61. On or before January 1, 2012, the members of the State Public Charter School Authority created by section 28.5 of this act shall be appointed to terms commencing on January 1, 2012, as follows:

1. One member appointed by the Governor to a term that expires on June 30, 2013.

2. One member appointed by the Governor to a term that expires on June 30, 2015.

3. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2013.

4. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2015.

5. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2013.

6. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2015.

7. One member must be appointed by the Charter School Association of Nevada or its successor organization to a term that expires on June 30, 2015. For the initial selection pursuant to this subsection, the Superintendent of Public Instruction shall designate the association of charter schools that is authorized to appoint a member of the State Public Charter School Authority.

Sec. 62. The Legislative Counsel shall, in preparing the reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

Sec. 63. (Deleted by amendment.)

Sec. 64. A charter school that is approved to operate as a charter school sponsored by the State Board of Education before January 1, 2012, shall be deemed to be sponsored by the State Public Charter School Authority created

pursuant to section 28.5 of this act commencing on January 1, 2012, and the written charter of the charter school shall remain in effect until the expiration of the written charter, unless the written charter is revoked by the State Public Charter School Authority pursuant to NRS 386.535. Before expiration of the written charter, such a charter school may apply to the State Public Charter School Authority for renewal of its written charter pursuant to NRS 386.530.

Sec. 65. This act becomes effective upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of this act, and on July 1, 2011, for all other purposes.

TEXT OF REPEALED SECTIONS

386.507 Subcommittee on Charter Schools: Appointment of members; terms. The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his or her service on the Subcommittee, the term of the member on the Subcommittee expires when his or her membership on the State Board expires. Members of the Subcommittee may be reappointed.

386.508 Charter School District for State Board-Sponsored Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. There is hereby created a school district to be designated as the Charter School District for State Board-Sponsored Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the State Board or sponsored by a college or university within the Nevada System of Higher Education. The State Board is hereby deemed the Board of Trustees of the School District. The School District is created for the sole purpose of providing local educational agency status to the School District for purposes of federal law governing charter schools.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 320.

Bill read third time.

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

Amendment No. 932.

AN ACT relating to motor carriers; revising provisions relating to the period of operation of certain taxicabs; prohibiting a short-term lessor from offering, arranging for or allowing the use of a paid driver; requiring the suspension of the drivers' licenses of certain persons who fail to pay administrative fines to the Nevada Transportation Authority; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation of certain motor carriers in this State by the Nevada Transportation Authority. (NRS 706.011-706.791)

Sections 4.7 and 10.3 of this bill require the suspension of the driver's license of a person who fails to pay certain administrative fines and related costs to the Authority. **Section 10.3** requires a person whose driver's license is suspended for the nonpayment of an administrative fine to the Authority to pay that administrative fine and to pay the fee for reinstatement of his or her driver's license before the driver's license may be reinstated by the Department of Motor Vehicles.

~~[Existing law provides that a short-term lessor is not liable for a fine or penalty related to the impoundment of certain vehicles if the vehicle was not in the control of the short-term lessor at the time that it was impounded. (NRS 706.478) Section 8.7 of this bill deletes the requirement that a true copy of the lease or rental agreement pursuant to which a vehicle was leased or rented to a lessee by the short-term lessor is prima facie evidence that the short-term lessor was not in control of the impounded vehicle.]~~

Section 10.1 of this bill prohibits a short-term lessor from offering, arranging for or allowing the use of a paid driver whether directly or through an affiliated person.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4.7, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 4.3. ***In any county for which regulation by the Taxicab Authority is not required pursuant to NRS 706.881:***

1. Except as otherwise provided in subsection 4, if a vehicle acquired for use as a taxicab by a certificate holder pursuant to paragraph (a) of subsection 3 has been in operation as a taxicab for 72 months based on the date on which it was originally placed into operation as a taxicab, the certificate holder shall remove the vehicle from operation as a taxicab.

2. Except as otherwise provided in subsection 4, if a vehicle acquired for use as a taxicab by a certificate holder pursuant to paragraph (b) of subsection 3 has been in operation as a taxicab for 55 months based on the date on which it was originally placed into operation as a taxicab, the certificate holder shall remove the vehicle from operation as a taxicab.

3. Any vehicle which a certificate holder acquires for use as a taxicab must:

(a) Be new; or

(b) Register not more than 30,000 miles on the odometer.

4. If a hybrid electric vehicle, as defined in 40 C.F.R. § 86.1702-99, is acquired for use as a taxicab by a certificate holder, the period of operation as a taxicab specified in subsections 1 and 2 shall be extended for an additional 24 months for that vehicle.

Sec. 4.7. *1. If the Authority imposes an administrative fine pursuant to NRS 706.476 or 706.771 in an amount greater than $100, the person who is responsible for payment of the administrative fine shall:*

(a) Pay to the Authority the full amount of the administrative fine and any other costs related to the administrative fine owed by that person; or

(b) If the person is unable to pay the full amount owed, enter into a plan of repayment with the Authority for the payment over time of the administrative fine.

2. The Authority shall, within 20 days after imposing an administrative fine pursuant to NRS 706.476 or 706.771, provide notice by first-class mail to the person against whom the administrative fine is imposed. The notice must include a statement:

(a) Of the amount of the administrative fine and any other costs which must be paid to the Authority;

(b) That the person must, within 14 days after receiving the notice:

(1) Pay to the Authority the full amount of the administrative fine and any other costs; or

(2) If a plan of repayment has been approved by the Authority, comply with the terms of the plan of repayment; and

(c) That the Authority is required to notify the Department of Motor Vehicles of the failure to pay the amount owed and that the Department may suspend the driver's license of the person for failure to pay the administrative fine and any other costs.

3. The Authority shall provide to the Department of Motor Vehicles the name of a person to whom a notice is sent pursuant to subsection 2 and the date on which the notice was sent.

4. The Authority shall, within 5 days after receiving payment from a person or approving a plan of repayment, notify the Department of Motor

Vehicles that the person has satisfied the requirements for payment of the administrative fine and any other costs owed by the person.

5. The provisions of this section do not relieve the Authority of any obligation to notify the State Controller of any debt that is past due pursuant to chapter 353C of NRS.

Sec. 5. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ***and sections 2 to 4.7, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 706.158 is hereby amended to read as follows:

706.158 The provisions of NRS 706.011 to 706.791, inclusive, ***and sections 2 to 4.7, inclusive, of this act*** relating to brokers do not apply to any person whom the Authority determines is:

1. A motor club which holds a valid certificate of authority issued by the Commissioner of Insurance;

2. A bona fide charitable organization, such as a nonprofit corporation or a society, organization or association for educational, religious, scientific or charitable purposes; or

3. A broker of transportation services provided by an entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421.

Sec. 7. NRS 706.163 is hereby amended to read as follows:

706.163 The provisions of NRS 706.011 to 706.861, inclusive, ***and sections 2 to 4.7, inclusive, of this act*** do not apply to vehicles leased to or owned by:

1. The Federal Government or any instrumentality thereof.

2. Any state or a political subdivision thereof.

Sec. 8. NRS 706.2885 is hereby amended to read as follows:

706.2885 1. A certificate of public convenience and necessity, permit or license issued in accordance with this chapter is not a franchise and may be revoked.

2. The Authority may at any time, for good cause shown, after investigation and hearing and upon 5 days' written notice to the grantee, suspend any certificate, permit or license issued in accordance with the provisions of NRS 706.011 to 706.791, inclusive, ***and sections 2 to 4.7, inclusive, of this act*** for a period not to exceed 60 days.

3. Upon receipt of a written complaint or on its own motion, the Authority may, after investigation and hearing, revoke any certificate, permit or license. If service of the notice required by subsection 2 cannot be made or if the grantee relinquishes the grantee's interest in the certificate, permit or

license by so notifying the Authority in writing, the Authority may revoke the certificate, permit or license without a hearing.

4. The proceedings thereafter are governed by the provisions of chapter 233B of NRS.

Sec. 8.7. ~~[NRS 706.478 is hereby amended to read as follows:~~

~~706.478 1. Notwithstanding any provision of NRS 706.011 to 706.791, inclusive, *and sections 2 to 4.7, inclusive, of this act* to the contrary, if the registered owner of a vehicle which is impounded pursuant to NRS 706.476 is a short-term lessor licensed pursuant to NRS 482.363 who is engaged *solely* in the business of renting or leasing vehicles in accordance with NRS 482.295 to 482.3159, inclusive, *and section 10.1 of this act,* the registered owner is not liable for any administrative fine or other penalty that may be imposed by the Authority for the operation of a passenger vehicle in violation of NRS 706.011 to 706.791, inclusive, *and sections 2 to 4.7, inclusive, of this act* if at the time that the vehicle was impounded, the vehicle was in the care, custody or control of a lessee.~~

~~2. A short-term lessor may establish that a vehicle was subject to the care, custody or control of a lessee at the time that the vehicle was impounded pursuant to NRS 706.476 by submitting to the Authority a true copy of the lease or rental agreement pursuant to which the vehicle was leased or rented to the lessee by the short-term lessor. The submission of a true copy of a lease or rental agreement is prima facie evidence that the vehicle was in the care, custody or control of the lessee.~~

~~3. Upon the receipt of a true copy of a written lease or rental agreement pursuant to subsection 2 which evidences that the vehicle impounded by the Authority pursuant to NRS 706.476 was under the care, custody or control of a lessee and not the registered owner of the vehicle, the Authority shall release the vehicle to the short-term lessor.~~

~~4. As used in this section, "short-term lessor" has the meaning ascribed to it in NRS 482.053.]~~ **(Deleted by amendment.)**

Sec. 9. NRS 706.736 is hereby amended to read as follows:

706.736 1. Except as otherwise provided in subsection 2, the provisions of NRS 706.011 to 706.791, inclusive, ***and sections 2 to 4.7, inclusive, of this act*** do not apply to:

(a) The transportation by a contractor licensed by the State Contractors' Board of the contractor's own equipment in the contractor's own vehicles from job to job.

(b) Any person engaged in transporting the person's own personal effects in the person's own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or to be sold, or used by the person in the furtherance of any commercial

enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

(g) The transportation by a private school of persons or property in connection with the operation of the school or related school activities, so long as the vehicle that is used to transport the persons or property does not have a gross vehicle weight rating of 26,001 pounds or more and is not registered pursuant to NRS 706.801 to 706.861, inclusive.

2. Unless exempted by a specific state statute or a specific federal statute, regulation or rule, any person referred to in subsection 1 is subject to:

(a) The provisions of paragraph (d) of subsection 1 of NRS 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

(b) All rules and regulations adopted by reference pursuant to paragraph (b) of subsection 1 of NRS 706.171 concerning the safety of drivers and vehicles.

(c) All standards adopted by regulation pursuant to NRS 706.173.

3. The provisions of NRS 706.311 to 706.453, inclusive, 706.471, 706.473, 706.475 and 706.6411 which authorize the Authority to issue:

(a) Except as otherwise provided in paragraph (b), certificates of public convenience and necessity and contract carriers' permits and to regulate rates, routes and services apply only to fully regulated carriers.

(b) Certificates of public convenience and necessity to operators of tow cars and to regulate rates for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle apply to operators of tow cars.

4. Any person who operates pursuant to a claim of an exemption provided by this section but who is found to be operating in a manner not covered by any of those exemptions immediately becomes liable, in addition to any other penalties provided in this chapter, for the fee appropriate to the person's actual operation as prescribed in this chapter, computed from the date when that operation began.

5. As used in this section, "private school" means a nonprofit private elementary or secondary educational institution that is licensed in this State.

Sec. 10. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, ***and sections 2 to 4.7, inclusive, of this act*** apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, ***and sections 2 to 4.7, inclusive, of this act*** or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~[,]~~ ***, and sections 2 to 4.7, inclusive, of this act;***

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~[,]~~ ***, and sections 2 to 4.7, inclusive, of this act;***

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~[,]~~ ***, and sections 2 to 4.7, inclusive, of this act;***

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

➥ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

➥ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than $500 nor more than $1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of $1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 10.1. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

It is unlawful for a short-term lessor to offer, arrange for or allow the use of a paid driver whether directly or through an affiliated person.

Sec. 10.3. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Upon receipt of notice from the Nevada Transportation Authority pursuant to section 4.7 of this act regarding a driver's delinquency with respect to the payment of an administrative fine and any other costs owed

to the Authority pursuant to NRS 706.476 or 706.771, the Department shall notify the driver by mail that his or her driver's license is subject to suspension and allow the driver 30 days after the date of mailing the notice to:

(a) Pay to the Authority the delinquent administrative fine and any other costs or comply with a plan of repayment approved pursuant to section 4.7 of this act; or

(b) Make a written request to the Department for a hearing.

2. If notified by the Nevada Transportation Authority, within 30 days after the notice of a delinquency in the payment of an administrative fine, that a driver has entered into a plan for repayment approved pursuant to section 4.7 of this act, the Department shall stop the suspension of the driver's license from going into effect. If the driver subsequently defaults on the plan of repayment with the Authority, the Authority shall notify the Department, which shall immediately suspend the driver's license until the Authority notifies the Department that the license is eligible for reinstatement.

3. The Department shall suspend the driver's license of a driver 31 days after it mails the notice provided for in subsection 1 to the driver, unless within that time it has received a written request for a hearing from the driver or notice from the Nevada Transportation Authority that the driver has paid the administrative fine and any other costs or complied with a plan of repayment approved pursuant to section 4.7 of this act. A license so suspended remains suspended until:

(a) The Authority notifies the Department that the license is eligible for reinstatement; and

(b) The Department receives payment of the fee for reinstatement required by NRS 483.410.

Sec. 10.5. NRS 483.010 is hereby amended to read as follows:

483.010 The provisions of NRS 483.010 to 483.630, inclusive, ***and section 10.3 of this act*** may be cited as the Uniform Motor Vehicle Drivers' License Act.

Sec. 10.6. NRS 483.015 is hereby amended to read as follows:

483.015 Except as otherwise provided in NRS 483.330, the provisions of NRS 483.010 to 483.630, inclusive, ***and section 10.3 of this act*** apply only with respect to noncommercial drivers' licenses.

Sec. 10.7. NRS 483.020 is hereby amended to read as follows:

483.020 As used in NRS 483.010 to 483.630, inclusive, ***and section 10.3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, have the meanings ascribed to them in those sections.

Sec. 10.9. NRS 483.420 is hereby amended to read as follows:

483.420 1. The Department is hereby authorized to cancel any driver's license upon determining that the licensee was not entitled to the issuance thereof pursuant to NRS 483.010 to 483.630, inclusive, ***and section 10.3 of this act*** or that the licensee failed to give the required or correct information in his or her application or committed any fraud in making an application.

2. Upon cancellation of a driver's license pursuant to subsection 1, the licensee shall surrender the license cancelled to the Department.

3. The Department is authorized to cancel any license that is voluntarily surrendered to the Department.

Sec. 11. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations or performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

2. Sections 3 and 4 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 340.

Bill read third time.

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

Amendment No. 962.

AN ACT relating to public health; requiring **the Department of Health and Human Services to collect information from** hospitals and surgical centers for ambulatory patients ~~[to report certain information]~~ relating to physicians who perform surgical procedures ~~[;]~~ **to the extent that money is available;** requiring the Department ~~[of Health and Human Services]~~ to post **such information** on an Internet website ~~[certain information relating to physicians who perform surgical procedures;]~~ **if available;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill require **the Department of Health and Human Services to collect and maintain information, to the extent that money is available for that purpose, from** hospitals and surgical centers for ambulatory patients ~~[to report certain data]~~ concerning the names of physicians who perform surgical procedures and other data relating to those surgical procedures ~~[to]~~ **as part of** the programs **established by the Department** to increase public awareness of health care information. **Section 3** of this bill requires the Department ~~[of Health and Human Services]~~ to post that information on an Internet website **.** ~~[. Existing law authorizes the Department to seek injunctive relief or civil penalties against facilities that violate the reporting requirements. (NRS 439A.300, 439A.310)]~~ **if that information is available.**

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

Section 1. NRS 439A.220 is hereby amended to read as follows:

439A.220 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) Inpatients and outpatients of each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;

(b) The quality of care provided by each hospital in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to NRS 439A.230;

(c) How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~[and]~~

(e) ~~*[For]*~~ ***To the extent that money is available for that purpose, for each hospital, the name of each physician who performed a surgical procedure in the hospital and the total number of surgical procedures performed by the physician, reported by diagnosis-related group if the information is available and by principal diagnosis, principal surgical procedure and secondary surgical procedure; and***

(f) Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State which the Department determines is:

(1) Useful to consumers;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 2. NRS 439A.240 is hereby amended to read as follows:

439A.240 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the surgical centers for ambulatory patients in this State. The program must be designed to assist consumers with comparing the quality of care provided by the surgical centers for ambulatory patients in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) The charges imposed on outpatients by each surgical center for ambulatory patients in this State as reported in the forms submitted pursuant to NRS 439A.250;

(b) The quality of care provided by each surgical center for ambulatory patients in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to NRS 439A.250;

(c) How consistently each surgical center for ambulatory patients follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each surgical center for ambulatory patients, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~[~~and~~]~~

(e) ~~*[For]*~~ ***To the extent that money is available for that purpose, for each surgical center for ambulatory patients, the name of each physician who performed a surgical procedure in the surgical center for ambulatory patients and the total number of surgical procedures performed by the physician, reported by type of medical treatment, principal diagnosis and, if the information is available, by principal surgical procedure and secondary surgical procedure; and***

(f) Any other information relating to the charges imposed and the quality of the services provided by the surgical centers for ambulatory patients in this State which the Department determines is:

(1) Useful to consumers;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

Sec. 3. NRS 439A.270 is hereby amended to read as follows:

439A.270 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to NRS 439A.220 and 439A.240. The information must:

(a) Include, for each hospital in this State, the ~~[total]~~ ***:***

(1) Total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; ***and***

(2) Name of each physician who performed a surgical procedure in the hospital and the total number of surgical procedures performed by each physician in the hospital, reported for the most frequent surgical procedures that the Department determines are most useful for consumers ~~[;]~~ ***if the information is available;***

(b) Include, for each surgical center for ambulatory patients in this State, the ~~[total]~~ ***:***

(1) Total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers; ***and***

(2) Name of each physician who performed a surgical procedure in the surgical center for ambulatory patients and the total number of surgical procedures performed by each physician in the surgical center for ambulatory patients, reported for the most frequent surgical procedures that the Department determines are most useful for consumers;

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

(1) Geographic location of each hospital;

(2) Type of medical diagnosis; and

(3) Type of medical treatment;

(d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:

(1) Geographic location of each surgical center for ambulatory patients;

(2) Type of medical diagnosis; and

(3) Type of medical treatment;

(e) Be presented in a manner that allows a person to view and compare the information separately for:

(1) The inpatients and outpatients of each hospital; and

(2) The outpatients of each surgical center for ambulatory patients;

(f) Be readily accessible and understandable by a member of the general public;

(g) Include the annual summary of reports of sentinel events prepared pursuant to paragraph (d) of subsection 1 of NRS 439.840; and

(h) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:

(1) Useful to consumers;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

2. The Department shall:

(a) Publicize the availability of the Internet website;

(b) Update the information contained on the Internet website at least quarterly;

(c) Ensure that the information contained on the Internet website is accurate and reliable;

(d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;

(e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital;

(f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(g) Upon request, make the information that is contained on the Internet website available in printed form.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 421.

Bill read third time.

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

Amendment No. 953.

AN ACT relating to public health; increasing the percentage of certain money received by the State to be allocated to the Fund for a Healthy Nevada; revising provisions relating to the allocation of money in the Fund for a Healthy Nevada; eliminating the Trust Fund for Public Health; providing for the transfer of money remaining in the Trust Fund for Public Health; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Trust Fund for Public Health receives 10 percent of all "tobacco settlement" money, which is that money received by the State pursuant to any settlement entered into by the State and a manufacturer of tobacco products and money received by the State pursuant to any judgment in a civil action against a manufacturer of tobacco products. The Trust Fund for Public Health uses interest and income earned on that money to fund grants for programs relating to public health. (NRS 439.605) Additionally, 50 percent of all tobacco settlement money goes to the Fund for a Healthy Nevada and is then allocated to various other programs relating to public health in amounts or according to percentages of available revenues set by statute. (NRS 439.620, 439.630)

This bill eliminates the Trust Fund for Public Health and provides for money in the Trust Fund for Public Health to be transferred to the Fund for a Healthy Nevada. This bill also increases to 60 percent the share of tobacco settlement money allocated to the Fund for a Healthy Nevada. Additionally, this bill removes the provisions setting the percentages of available revenues to be allocated from the Fund for a Healthy Nevada on specific programs and instead requires the Department of Health and Human Services to propose a biennial plan for the allocation of money for those programs. The plan must be submitted as part of the proposed biennial budget of the Department. In preparing the plan, the Department shall consider recommendations submitted by the Grants Management Advisory Committee, the Nevada Commission on Aging and the Nevada Commission on Services for Persons with Disabilities. Finally, this bill removes certain programs relating to the prevention, reduction and treatment of tobacco use from the list of programs for which money in the Fund for a Healthy Nevada must be allocated.

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

Section 1. NRS 439.620 is hereby amended to read as follows:

439.620 1. The Fund for a Healthy Nevada is hereby created in the State Treasury. The State Treasurer shall deposit in the Fund:

(a) ~~[Fifty]~~ ***Sixty*** percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) ~~[Fifty]~~ ***Sixty*** percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. The State Treasurer or the Department may submit to the Interim Finance Committee a request for an allocation for administrative expenses from the Fund pursuant to this section. Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund must:

(a) Not exceed 2 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the State Treasurer to administer the Fund; and

(b) Not exceed 5 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department, including, without limitation, the Aging and Disability Services Division of the Department, to carry out its duties set forth in NRS 439.630, to administer the provisions of NRS 439.635 to 439.690, inclusive, and NRS 439.705 to 439.795, inclusive.

➥ For the purposes of this subsection, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund is hereby appropriated to be used for any purpose authorized by the Legislature or by

the Department for expenditure or allocation in accordance with the provisions of NRS 439.630. Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 2. NRS 439.630 is hereby amended to read as follows:

439.630 1. The Department shall:

(a) Conduct, or require the Grants Management Advisory Committee created by NRS 232.383 to conduct, public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

(1) Promote public health;

(2) Improve health services for children, senior citizens and persons with disabilities;

(3) Reduce or prevent the abuse of and addiction to alcohol and drugs; and

(4) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities, and report the results of the evaluation to the Legislative Committee on Health Care on an annual basis.

(c) ~~[Allocate not more than 30 percent of available revenues]~~ ***Subject to legislative*** ~~*[appropriation,]*~~ ***authorization, allocate money*** for direct expenditure by the Department to pay for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From the money allocated pursuant to this paragraph, the Department may subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.635 to 439.690, inclusive. The Department shall submit a quarterly report to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate regarding the general manner in which expenditures have been made pursuant to this paragraph.

(d) ~~[Allocate,]~~ ***Subject to legislative*** ~~*[appropriation,]*~~ ***authorization, allocate,*** by contract or grant, ***money*** for expenditure ~~[not more than 30~~

~~percent of available revenues for allocation~~] by the Aging and Disability Services Division of the Department in the form of grants for existing or new programs that assist senior citizens with independent living, including, without limitation, programs that provide:

(1) Respite care or relief of informal caretakers;

(2) Transportation to new or existing services to assist senior citizens in living independently; and

(3) Care in the home which allows senior citizens to remain at home instead of in institutional care.

➥ The Aging and Disability Services Division of the Department shall consider recommendations from the Grants Management Advisory Committee concerning the independent living needs of senior citizens.

(e) Allocate $200,000 of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Director to:

(1) Provide guaranteed funding to finance assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147; and

(2) Fund assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147 and assisted living supportive services that are provided pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708.

➥ The Director shall develop policies and procedures for distributing the money allocated pursuant to this paragraph. Money allocated pursuant to this paragraph does not revert to the Fund at the end of the fiscal year.

(f) [~~Allocate~~] ***Subject to legislative authorization, allocate*** to the Health Division [~~not more than 15 percent of available revenues~~] ***money*** for programs that are consistent with the guidelines established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services relating to evidence-based best practices to prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. In making allocations pursuant to this paragraph, the Health Division shall allocate the money, by contract or grant:

(1) To the district board of health in each county whose population is 100,000 or more for expenditure for such programs in the respective county;

(2) For such programs in counties whose population is less than 100,000; and

(3) For statewide programs for tobacco cessation and other statewide services for tobacco cessation and for statewide evaluations of programs which receive an allocation of money pursuant to this paragraph, as determined necessary by the Health Division and the district boards of health.

(g) [~~Allocate,~~] ***Subject to legislative*** ~~*[appropriation,]*~~ ***authorization, allocate,*** by contract or grant, ***money*** for expenditure [~~not more than 10 percent of available revenues~~] for programs that improve ***the*** health [~~services~~

~~for children.~~] ***and well-being of residents of this State*** ~~[.]~~ ***, including, without limitation, programs that improve health services for children.***

(h) ~~[Allocate,]~~

~~[(g)]~~ ***Subject to legislative*** ~~[appropriation,]~~ ***authorization, allocate,*** by contract or grant, ***money*** for expenditure ~~[not more than 10 percent of available revenues]~~ for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the Department shall, to the extent practicable, allocate the money evenly among the following three types of programs:

(1) Programs that provide respite care or relief of informal caretakers for persons with disabilities;

(2) Programs that provide positive behavioral supports to persons with disabilities; and

(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.

(i) ~~[Allocate not more than 5 percent of available revenues]~~

~~[(h)]~~ ***Subject to legislative*** ~~[appropriation,]~~ ***authorization, allocate money*** for direct expenditure by the Department to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.705 to 439.795, inclusive.

(j) ~~[(i)]~~ Maximize expenditures through local, federal and private matching contributions.

(k) ~~[(j)]~~ Ensure that any money expended from the Fund will not be used to supplant existing methods of funding that are available to public agencies.

(l) ~~[(k)]~~ Develop policies and procedures for the administration and distribution of contracts, grants and other expenditures to state agencies, political subdivisions of this State, nonprofit organizations, universities, state colleges and community colleges. A condition of any such contract or grant must be that not more than 8 percent of the contract or grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals per biennium.

(m) ~~[(l)]~~ To make the allocations required by paragraphs (f), (g) and (h):

(1) Prioritize and quantify the needs for these programs;

(2) Develop, solicit and accept applications for allocations;

(3) Review and consider the recommendations of the Grants Management Advisory Committee submitted pursuant to NRS 232.385;

(4) Conduct annual evaluations of programs to which allocations have been awarded; and

(5) Submit annual reports concerning the programs to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

(n) ~~[(m)]~~ Transmit a report of all findings, recommendations and expenditures to the Governor, each regular session of the Legislature, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

~~[(n)]~~ ***(o) After considering the recommendations submitted to the Director pursuant to subsection 6, develop a plan each biennium to determine the percentage of available money in the Fund for a Healthy Nevada to be allocated from the Fund for the purposes described in paragraphs (c), (d), (f), (g) , ~~[and]~~ (h) ~~[.]~~ and (i). The plan must be submitted as part of the proposed budget submitted to the Chief of the Budget Division of the Department of Administration pursuant to NRS 353.210.***

~~[(o)]~~ ***(p) On or before September 30 of each even-numbered year, submit to the Grants Management Advisory Committee created by NRS 232.383, the Nevada Commission on Aging created by NRS 427A.032 and the Nevada Commission on Services for Persons with Disabilities created by NRS 427A.1211 a report on the funding plan submitted to the Chief of the Budget Division of the Department of Administration pursuant to paragraph ~~[(n)]~~ (o).***

2. The Department may take such other actions as are necessary to carry out its duties.

3. To make the allocations required by paragraph (d) of subsection 1, the Aging and Disability Services Division of the Department shall:

(a) Prioritize and quantify the needs of senior citizens for these programs;

(b) Develop, solicit and accept grant applications for allocations;

(c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;

(d) Award grants, contracts or other allocations;

(e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and

(f) Submit annual reports concerning the allocations made by the Aging and Disability Services Division pursuant to paragraph (d) of subsection 1 to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

4. The Aging and Disability Services Division of the Department shall submit each proposed grant or contract which would be used to expand or

augment an existing state program to the Interim Finance Committee for approval before the grant or contract is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging and Disability Services Division of the Department shall not expend or transfer any money allocated to the Aging and Disability Services Division pursuant to this section to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive, or to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

5. A veteran may receive benefits or other services which are available from the money allocated pursuant to this section for senior citizens or persons with disabilities to the extent that the veteran does not receive other benefits or services provided to veterans for the same purpose if the veteran qualifies for the benefits or services as a senior citizen or a person with a disability, or both.

6. ~~[As used in this section, "available revenues" means the total revenues deposited in the Fund for a Healthy Nevada each year minus $200,000.]~~ ***On or before June 30 of each even-numbered year, the Grants Management Advisory Committee, the Nevada Commission on Aging and the Nevada Commission on Services for Persons with Disabilities each shall submit to the Director a report that includes, without limitation, recommendations regarding community needs and priorities that are determined by each such entity after any public hearings held by the entity.***

Sec. 3. The State Controller shall transfer to the Fund for a Healthy Nevada created by NRS 439.620, as soon as practicable on or after July 1, 2011, all money remaining in the Trust Fund for Public Health created by NRS 439.605 that has not been committed for expenditure.

Sec. 4. NRS 439.605, 439.610 and 439.615 are hereby repealed.

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

TEXT OF REPEALED SECTIONS

439.605 Creation and administration of Fund; permissible investments; appropriation and expenditure of interest and income.

1. The Trust Fund for Public Health is hereby created in the State Treasury. The State Treasurer shall deposit in the Trust Fund:

(a) Ten percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) Ten percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Trust Fund. As administrator of the Trust Fund, the State Treasurer, except as otherwise provided in this section:

(a) Shall maintain the financial records of the Trust Fund;

(b) Shall invest the money in the Trust Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Trust Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Trust Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Trust Fund.

3. In addition to the investments authorized pursuant to paragraph (b) of subsection 2, the State Treasurer may, except as otherwise provided in subsection 4, invest the money in the Trust Fund in:

(a) Common or preferred stock of a corporation created by or existing under the laws of the United States or of a state, district or territory of the United States, if:

(1) The stock of the corporation is:

(I) Listed on a national stock exchange; or

(II) Traded in the over-the-counter market, if the price quotations for the over-the-counter stock are quoted by the National Association of Securities Dealers Automated Quotations System (NASDAQ);

(2) The outstanding shares of the corporation have a total market value of not less than $50,000,000;

(3) The maximum investment in stock is not greater than 50 percent of the book value of the total investments of the Trust Fund;

(4) Except for investments made pursuant to paragraph (c), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the Trust Fund; and

(5) Except for investments made pursuant to paragraph (c), the total amount of shares owned by the Trust Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(b) A pooled or commingled real estate fund or a real estate security that is managed by a corporate trustee or by an investment advisory firm that is registered with the Securities and Exchange Commission, either of which may be retained by the State Treasurer as an investment manager. The shares

and the pooled or commingled fund must be held in trust. The total book value of an investment made under this paragraph must not at any time be greater than 5 percent of the total book value of all investments of the Trust Fund.

(c) Mutual funds or common trust funds that consist of any combination of the investments authorized pursuant to paragraph (b) of subsection 2 and paragraphs (a) and (b) of this subsection.

4. The State Treasurer shall not invest any money in the Trust Fund pursuant to subsection 3 unless the State Treasurer obtains a judicial determination that the proposed investment or category of investments will not violate the provisions of Section 9 of Article 8 of the Constitution of the State of Nevada. The State Treasurer shall contract for the services of independent contractors to manage any investments of the State Treasurer made pursuant to subsection 3. The State Treasurer shall establish such criteria for the qualifications of such an independent contractor as are appropriate to ensure that each independent contractor has expertise in the management of such investments.

5. The interest and income earned on the money in the Trust Fund is hereby appropriated to the Board of Trustees of the Trust Fund for Public Health and must, after deducting any applicable charges, be credited to the Fund and accounted for separately. All claims against the Fund must be paid as other claims against the State are paid.

6. Only the interest and income earned on the money in the Trust Fund may be expended. Such expenditures may be made for:

(a) Grants made pursuant to NRS 439.615 for:

(1) The promotion of public health and programs for the prevention of disease or illness;

(2) Research on issues related to public health; and

(3) The provision of direct health care services to children and senior citizens;

(b) Expenses related to the operation of the Board of Trustees of the Trust Fund;

(c) Actual costs incurred by the Health Division for providing administrative assistance to the Board, but in no event may more than 2 percent of the money in the Fund be used for administrative expenses or other indirect costs; and

(d) Any other purpose authorized by the Legislature.

7. The money in the Trust Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

439.610 Board of Trustees of Fund: Creation; membership; election of Chair; meetings; quorum; compensation of members; administrative support.

1. The Board of Trustees of the Trust Fund for Public Health is hereby created.

2. The Board consists of 11 members composed of:

(a) The Administrator or a designee of the Administrator.

(b) The State Health Officer or a designee of the State Health Officer.

(c) The Chair of the Nevada Commission on Aging or a designee of the Chair.

(d) The Chair of the State Board of Health or a designee of the Chair.

(e) The Chair of the Advisory Board on Maternal and Child Health or a designee of the Chair.

(f) The superintendent of schools of the school district in this State that has the highest number of enrolled pupils or a designee of that superintendent.

(g) The county health officers of the two most populous counties in this State.

(h) One member appointed by the Nevada Association of Counties, or its successor, who serves as a county health officer in a rural area of this State.

(i) A representative of the University of Nevada School of Medicine appointed by the Dean of the School of Medicine.

(j) One member appointed by the Governor who possesses knowledge, skill and experience in providing health care services.

3. The term of a member of the Board who is appointed pursuant to paragraph (h), (i) or (j) of subsection 2 is 4 years.

4. The Board shall annually elect a Chair from among its members. The Board shall meet at least quarterly. A majority of the members constitutes a quorum, and a majority of those present must concur in any decision.

5. Each member of the Board serves without compensation. While engaged in the business of the Board, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses of:

(a) A member of the Board who is an officer or employee of this State or a local government thereof must be paid by the state agency or the local government.

(b) Any other member of the Board must be paid from the interest and income earned on the money in the Trust Fund.

6. Each member of the Board who is an officer or employee of this State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the officer or employee may perform his or her duties relating to the Board in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Board to:

(a) Make up the time he or she is absent from work to fulfill his or her obligations as a member of the Board; or

(b) Take annual leave or compensatory time for the absence.

7. The Health Division shall provide such administrative support to the Board as is required to carry out the duties of the Board.

439.615 Board of Trustees of Fund: Powers and duties.

1. The Board of Trustees shall:

(a) In accordance with the provisions set forth in subsection 6 of NRS 439.605, develop policies and procedures for the expenditure of the interest and income earned on the money in the Trust Fund for Public Health.

(b) After deducting authorized expenses, annually make grants in a cumulative amount equal to the interest and income earned on the money in the Trust Fund for Public Health.

(c) Develop forms for requests for proposals for grants and disseminate information about the grant program. A condition of each such grant must be that not more than 8 percent of the grant may be used for administrative expenses and other indirect costs.

(d) Publish an annual report of the activities of the Board and the grants made by the Board. A copy of each such report must be transmitted to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

2. The Board may take such other actions as are necessary to carry out its duties and the provisions of this section and NRS 439.605 and 439.610.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 149, 437, and 483 be taken from their positions on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 164.

Read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 164 be taken from the General File and placed on the Chief Clerk’s desk.

Motion carried.

Senate Bill No. 211.
Bill read third time.
Roll call on Senate Bill No. 211:
YEAS—42.
NAYS—None.
Senate Bill No. 211 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 159.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Senate Bill No. 159:
YEAS—41.
NAYS—None.
EXCUSED—Carlton.
Senate Bill No. 159 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Senate Bill No. 212.
Bill read third time.
Remarks by Assemblywoman Dondero Loop.
Roll call on Senate Bill No. 212:
YEAS—41.
NAYS—None.
EXCUSED—Carlton.
Senate Bill No. 212 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Senate Bill No. 320.
Bill read third time.
Roll call on Senate Bill No. 320:
YEAS—30.
NAYS—Aizley, Ellison, Goedhart, Hambrick, Hammond, Hickey, Kirner, Livermore, Neal, Ohrenschall, Sherwood—11.
EXCUSED—Carlton.
Senate Bill No. 320 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.
Bill ordered reprinted, reengrossed, and transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Mastroluca moved that Senate Bill No. 340 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 421.

Bill read third time.

Roll call on Senate Bill No. 421:

YEAS—41.

NAYS—None.

EXCUSED—Carlton.

Senate Bill No. 421 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 5, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 74, Amendment No. 903; Assembly Bill No. 222, Amendment No. 926; Assembly Bill No. 259, Amendment No. 950, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 72, 197, 227, 360, 371, 427, 428, 473, 493.

SHERRY L. RODRIGUEZ
Assistant Secretary of 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 12:26 a.m.

ASSEMBLY IN SESSION

At 12:29 a.m.

Mr. Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 137.

The following Senate amendment was read:

Amendment No. 913.

AN ACT relating to education; requiring the implementation of a school breakfast program at certain public schools; requiring the Department of

Education to report on the school breakfast program for each public school; requiring school districts to report on school nutrition programs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Child Nutrition Act enacted in 1966 established the School Breakfast Program which provides grants to the states to establish school breakfast programs in public schools. (42 U.S.C. §§ 1771 et. seq.) Federal regulations provide that a public school may elect to operate a school breakfast program pursuant to one of three alternative Provisions and prescribe the requirements by which a public school may operate the program pursuant to one of those Provisions. (7 C.F.R. § 245.9) If a school provides a school breakfast program pursuant to Provision 2 of the federal regulations, the school serves those meals free of charge to all pupils enrolled in the school. Under existing law, the boards of trustees of school districts and the governing bodies of charter schools are authorized to operate or provide for the operation of programs of nutrition in the public schools under their jurisdiction. (NRS 387.090) **Section 1** of this bill requires the implementation of a school breakfast program to provide breakfast to pupils enrolled in each public school, including a charter school, that is eligible to operate a program of nutrition in accordance with the requirements of Provision 2 set forth in the federal regulations and as authorized by the Department of Education. **Section 1** also requires the Department, on a biennial basis, to prepare a written report on the school breakfast program for each public school in this State and requires the board of trustees of each school district, on a biennial basis, to submit to the Department a report containing certain information concerning nutrition programs. **Section 1** further requires the Department to submit compilations of the reports, on or before January 1 of each odd-numbered year, to the Legislative Committee on Health Care, the Interim Finance Committee and the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

Effective on July 1, 2013, section 3.5 of this bill provides that the school breakfast program implemented by a school district or charter school must provide for the serving of breakfast after the school day has commenced in the following order of priority: (1) the classroom; (2) a transportable manner; or (3) the cafeteria.

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

Section 1. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, if a public school is eligible to operate a program of nutrition in accordance with the

requirements of Provision 2 set forth in 7 C.F.R. § 245.9, and as authorized by the Department, the board of trustees of the school district in which the school is located or the governing body of the charter school, as applicable, shall implement a breakfast program at the school. ~~*[The program must provide for the serving of breakfast after the school day has commenced in the following order of priority:*~~

~~*(a) The classroom;*~~

~~*(b) A transportable manner; or*~~

~~*(c) The cafeteria.]*~~

2. The board of trustees of a school district in a county whose population is less than 55,000 may submit a request to the State Board for an exemption from the requirements of subsection 1 on a form prescribed by the Department. The State Board shall grant such an exemption if the State Board determines that a fiscal hardship exists for the school district.

3. The Department shall, on a biennial basis, prepare a written report on the school breakfast program, for each public school in this State, including, without limitation:

(a) The percentage of pupils enrolled in the school who participate in the program, which must be reported for the immediately preceding 4 years as that data is available;

(b) A comparison between the:

(1) Number of pupils who are eligible to receive free or reduced-priced breakfasts;

(2) Number of pupils who participate in the school breakfast program; and

(3) Total enrollment of pupils in the school;

(c) An identification of the method by which the school provides breakfast to pupils;

(d) The average daily participation in the school breakfast program of pupils who are eligible to receive free or reduced-price breakfasts; and

(e) The percentage of pupils who are eligible to receive free or reduced-price breakfasts and who participate in the school breakfast program.

4. The board of trustees of each school district shall, on a biennial basis, submit to the Department a written report on school nutrition programs within the school district, which must be reported for the immediately preceding 4 years as that data is available, including, without limitation:

(a) The percentage of pupils enrolled in the school district who participate in the school breakfast program and the progress made by the school district in increasing that participation;

(b) The percentage of public schools within the school district that participate in the school breakfast program and the progress made by the school district in increasing that participation;

(c) The percentage of pupils who participate in each program of nutrition offered by the school district and the progress made by the school district in increasing that participation;

(d) A list of each public school in the school district that operates a program of nutrition during the summer, including, without limitation:

(1) A list of each sponsor of such a program;

(2) The number of sites at which the sponsor offers the program; and

(3) The number of meals served at each site; and

(e) The amount of money the school district is eligible to receive from the Federal Government and from other sources for the school breakfast program offered by the school district and the amount of money the school district receives for that program.

5. On or before November 1 of each even-numbered year, the Department shall compile the data for each school district from the reports prepared pursuant to subsections 3 and 4 and submit each school district's compilation to the board of trustees of that school district for review. Upon review, the board of trustees of each school district shall, on or before December 15 of each even-numbered year, submit to the Department a written explanation of any decrease in the number of pupils participating in the school breakfast program and a plan to improve the number of pupils participating.

6. On or before January 1 of each odd-numbered year, the Department shall submit the compilations prepared by the Department pursuant to subsection 5 and the plans to improve prepared by the school districts pursuant to subsection 5 to the:

(a) Legislative Committee on Health Care.

(b) Interim Finance Committee.

(c) Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

Sec. 2. NRS 387.070 is hereby amended to read as follows:

387.070 As used in NRS 387.070 to 387.105, inclusive, ***and section 1 of this act,*** "program of nutrition" means a program under which food is served to or nutritional education and assistance are provided for children and adults by any public school, private school or public or private institution on a nonprofit basis, including any such program for which assistance may be made available out of money appropriated by the Congress of the United States. The term includes, but is not limited to, a school lunch program.

Sec. 3. NRS 387.090 is hereby amended to read as follows:

387.090 ~~[~~The~~]~~ ***In addition to the school breakfast program required by section 1 of this act, the*** board of trustees of each school district and the governing body of each charter school may:

1. Operate or provide for the operation of programs of nutrition in the public schools under their jurisdiction.

2. Use therefor money disbursed to them pursuant to the provisions of NRS 387.070 to 387.105, inclusive, ***and section 1 of this act,*** gifts, donations and other money received from the sale of food under those programs.

3. Deposit the money in one or more accounts in one or more banks or credit unions within the State.

4. Contract with respect to food, services, supplies, equipment and facilities for the operation of the programs.

Sec. 3.5. **Section 1 of this act is hereby amended to read as follows:**

Section 1. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, if a public school is eligible to operate a program of nutrition in accordance with the requirements of Provision 2 set forth in 7 C.F.R. § 245.9, and as authorized by the Department, the board of trustees of the school district in which the school is located or the governing body of the charter school, as applicable, shall implement a breakfast program at the school. ***The program must provide for the serving of breakfast after the school day has commenced in the following order of priority:***

(a) The classroom;

(b) A transportable manner; or

(c) The cafeteria.

2. The board of trustees of a school district in a county whose population is less than 55,000 may submit a request to the State Board for an exemption from the requirements of subsection 1 on a form prescribed by the Department. The State Board shall grant such an exemption if the State Board determines that a fiscal hardship exists for the school district.

3. The Department shall, on a biennial basis, prepare a written report on the school breakfast program, for each public school in this State, including, without limitation:

(a) The percentage of pupils enrolled in the school who participate in the program, which must be reported for the immediately preceding 4 years as that data is available;

(b) A comparison between the:

(1) Number of pupils who are eligible to receive free or reduced-priced breakfasts;

(2) Number of pupils who participate in the school breakfast program; and

(3) Total enrollment of pupils in the school;

(c) An identification of the method by which the school provides breakfast to pupils;

(d) The average daily participation in the school breakfast program of pupils who are eligible to receive free or reduced-price breakfasts; and

(e) The percentage of pupils who are eligible to receive free or reduced-price breakfasts and who participate in the school breakfast program.

4. The board of trustees of each school district shall, on a biennial basis, submit to the Department a written report on school nutrition programs within the school district, which must be reported for the immediately preceding 4 years as that data is available, including, without limitation:

(a) The percentage of pupils enrolled in the school district who participate in the school breakfast program and the progress made by the school district in increasing that participation;

(b) The percentage of public schools within the school district that participate in the school breakfast program and the progress made by the school district in increasing that participation;

(c) The percentage of pupils who participate in each program of nutrition offered by the school district and the progress made by the school district in increasing that participation;

(d) A list of each public school in the school district that operates a program of nutrition during the summer, including, without limitation:

(1) A list of each sponsor of such a program;

(2) The number of sites at which the sponsor offers the program; and

(3) The number of meals served at each site; and

(e) The amount of money the school district is eligible to receive from the Federal Government and from other sources for the school breakfast program offered by the school district and the amount of money the school district receives for that program.

5. On or before November 1 of each even-numbered year, the Department shall compile the data for each school district from the reports prepared pursuant to subsections 3 and 4 and submit each school district's compilation to the board of trustees of that school district for review. Upon review, the board of trustees of each school district shall, on or before December 15 of each even-numbered year, submit to the Department a written explanation of any decrease in the number of pupils participating in the school breakfast program and a plan to improve the number of pupils participating.

6. On or before January 1 of each odd-numbered year, the Department shall submit the compilations prepared by the Department pursuant to subsection 5 and the plans to improve prepared by the school districts pursuant to subsection 5 to the:

(a) Legislative Committee on Health Care.

(b) Interim Finance Committee.

(c) Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

Sec. 4. 1. Each school district shall increase by ~~[15]~~ **10** percent the number of pupils who are enrolled in the school district and participating in a school breakfast program on or before June 30, 2013, and annually thereafter, so that the school district achieves 100-percent participation in the school breakfast program.

2. Each school district shall prepare a report indicating whether the school district attained the ~~[15]~~ **10** percent increase required by subsection 1 during the 2011-2013 biennium. On or before August 1, 2013, each school district shall submit the report to the:

(a) Legislative Committee on Health Care.

(b) Interim Finance Committee.

(c) Legislative Committee on Education.

Sec. 5. 1. This **section and sections 1, 2, 3 and 4 of this** act ~~[becomes]~~ **become** effective on July 1, 2011.

2. Section 3.5 of this act becomes effective on July 1, 2013.

Assemblyman Bobzien moved that the Assembly concur in the Senate Amendment No. 913 to Assembly Bill No. 137.

Remarks by Assemblyman Bobzien.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 404.

The following Senate amendment was read:

Amendment No. 895.

AN ACT relating to state buildings; requiring the Chief of the Buildings and Grounds Division of the Department of Administration to negotiate and approve any agreements to lease office rooms for use by certain state entities; requiring certain state entities to provide the Chief with an inventory of all real property used by the entity; requiring the Chief to post on an Internet website certain information regarding **certain** real property owned or leased by the State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Chief of the Buildings and Grounds Division of the Department of Administration is authorized to lease and equip office rooms outside of state buildings for the use of certain state officers and employees whenever sufficient space cannot be provided within state buildings. (NRS 331.110) **Section 1** of this bill requires that any agreement to lease office rooms for state officers, departments, agencies, commissions or boards

must be negotiated, approved and overseen by the Chief. **Section 1** also requires state officers, departments, agencies, commissions and boards to provide the Chief with an inventory of all real property leased to the State that is used by the state officer, department, agency, commission or board. **Section 1** further requires the Chief to post, on an Internet website, a list of ~~[all]~~ real property that is leased or owned by the State, including a brief description of the property, its use and the terms of the agreement under which the property is leased by the State ~~[.]~~ **, except that the information must not be posted if the Chief of the Budget Division of the Department of Administration deems the information to be confidential. Such information may be deemed confidential if the state officer or public entity that uses the property requests that the information be kept confidential to maintain public safety. If the information is deemed confidential, the Chief of the Budget Division is required to inform the Chief of the Buildings and Grounds Division. Sections 2, 3 and 4** of this bill extend the requirements of **section 1** to properties leased for use by the Gaming Control Board, the Department of Public Safety and the Department of Motor Vehicles, which are currently exempted from certain requirements relating to the lease or purchase of property. (NRS 463.100, 480.160, 481.055)

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

Section 1. NRS 331.110 is hereby amended to read as follows:

331.110 1. Except as otherwise provided ~~[in subsection 2,]~~ ***by law,*** the Chief ***of the Buildings and Grounds Division*** may lease and equip office rooms outside of state buildings for the use of state officers **,** ~~[and employees,]~~ ***departments, agencies, boards and commissions*** whenever sufficient space ~~[for the officers and employees]~~ cannot be provided within state buildings **.** ***The Chief of the Buildings and Grounds Division shall negotiate, approve and oversee any agreement to lease office rooms pursuant to this section***, but no such lease may extend beyond the term of 1 year unless it is reviewed and approved by a majority of the members of the State Board of Examiners. The Attorney General shall approve each lease entered into pursuant to this subsection as to form and compliance with law.

2. Notwithstanding any other provision of law, before the Chief of the Buildings and Grounds Division enters into any lease for office rooms for any state officer, department, agency, board or commission, the Chief of the Buildings and Grounds Division shall consider, without limitation:

(a) The reasonableness of the terms of the agreement, including, without limitation, the cost; and

(b) The availability of space for use by the state officer, department, agency, board or commission in buildings that are owned by or leased to the State.

3. Each state officer, department, agency, board and commission shall maintain and provide to the Chief of the Buildings and Grounds Division an inventory of all real property leased to the State that is occupied by or otherwise used by the state officer, department, agency, board and commission. The Division of State Lands, Department of Transportation and State Public Works Board shall maintain and provide to the Chief of the Buildings and Grounds Division an inventory of all real property owned by the State.

4. ~~[The]~~ Except as otherwise provided in subsection 6, the Chief of the Buildings and Grounds Division shall post on an Internet website maintained by the State a list of all real property owned or leased by the State. Each such listing shall include, without limitation, a brief description of:

(a) The location, size and current use of the real property; and

(b) The terms of the lease, including, without limitation, the cost to the State.

[~~2. The provisions of subsection 1 do not apply to state officers and employees of boards that are exempt from the provisions of chapter 353 of NRS pursuant to NRS 353.005.~~**]**

5. Before submitting the inventory to the Chief of the Buildings and Grounds Division pursuant to subsection 3, a state officer, department, agency, board, commission, the Division of State Lands, Department of Transportation or State Public Works Board that uses the property may request the Chief of the Budget Division of the Department of Administration to deem information regarding the property confidential for the purpose of maintaining public safety.

6. If the Chief of the Budget Division deems information regarding property to be confidential pursuant to subsection 5, the information concerning the property must be kept confidential and is not a public book or record within the meaning of NRS 239.010. The Chief of the Budget Division must inform the Chief of the Buildings and Grounds Division that the information is confidential and that the information must not be posted on an Internet website maintained by the State pursuant to subsection 4.

Sec. 2. NRS 463.100 is hereby amended to read as follows:

463.100 1. The Board shall keep its main office at Carson City, Nevada, in conjunction with the Commission in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Board may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this State as the Chair of the Board

deems necessary for the efficient operation of the Board. ~~[The Chair of the Board may enter into such leases or other agreements as may be necessary to establish a branch office.]~~ ***Any leases or agreements entered into pursuant to this subsection must be executed in accordance with the provisions of NRS 331.110.***

Sec. 3. NRS 480.160 is hereby amended to read as follows:

480.160 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director deems necessary for the efficient operation of the Department and the various divisions thereof. ~~[The Director may enter into such leases or other agreements as may be necessary to establish such branch offices.]~~ ***Any leases or agreements entered into pursuant to this subsection must be executed in accordance with the provisions of NRS 331.110.***

Sec. 4. NRS 481.055 is hereby amended to read as follows:

481.055 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director may deem necessary to the efficient operation of the Department and the various divisions thereof. ~~[The Director is authorized, on behalf of the Department, to enter into such leases or other agreements as may be necessary to the establishment of such branch offices.]~~ ***Any leases or agreements entered into pursuant to this subsection must be executed in accordance with the provisions of NRS 331.110.***

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

Assemblywoman Smith moved that the Assembly concur in the Senate Amendment No. 895 to Assembly Bill No. 404.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 433, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 690 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 10, which is attached to and hereby made a part of this report.

TICK SEGERBLOM	DAVID PARKS
RICHARD (SKIP) DALY	MO DENIS
EDWIN GOEDHART	DEAN RHOADS
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA10.

AN ACT relating to employment practices; making it unlawful for public employers to make rules or regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office with certain exceptions; prohibiting any employer from taking any adverse employment action against an employee because the employee has become a candidate for any public office with certain exceptions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it unlawful for a private employer to make rules or regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office. (NRS 613.040) A violation of that prohibition by an employer is punishable by a fine of not more than $5,000. In addition, the costs of the proceeding to recover the fine are recoverable by the Attorney General. (NRS 613.050) The employee is also authorized to bring a separate lawsuit for damages for such a violation. (NRS 613.070) This bill makes it unlawful for public employers and labor organizations, in addition to private employers, to engage in such unlawful activity and also makes it unlawful for any public or private employer or labor organization to take any adverse employment action against an employee as a result of the employee becoming a candidate for public office. With respect to public employees, this bill makes an exception where necessary to meet requirements of federal law, such as the Hatch Act, 5 U.S.C. §§ 1501-1508, which imposes restrictions on certain political activities by state and local governmental employees.

WHEREAS, Every eligible person has a right to participate in the functions of government; and

WHEREAS, Participating as a candidate in an election for public office and participating in politics are at the core of government; and

WHEREAS, It is the policy of the State of Nevada to encourage participation in government; and

WHEREAS, Anything which tends to prevent a person from so participating is contrary to the policy of this State; now, therefore,

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

Section 1. NRS 613.040 is hereby amended to read as follows:

613.040 ~~[It]~~

1. Except as necessary to meet requirements of federal law as it pertains to a particular public employee, it shall be unlawful for any person ~~[, firm or corporation doing business or employing labor in the State of Nevada to]~~ ***who employs or has under his or her direction and control any***

person for wages or under a contract of hire and for any labor organization referring a person to an employer for employment:

(a) To make any rule or regulation prohibiting or preventing any employee from engaging in politics or becoming a candidate for any public office in this state.

(b) To take any adverse employment action against an employee who becomes a candidate for any public office in this State because the employee became a candidate for public office.

2. As used in this section:

(a) "Adverse employment action":

(1) Includes, without limitation, requiring an employee to take an unpaid leave of absence during any period of his or her campaign for public office.

(2) Does not include, without limitation:

(I) Any disciplinary or other personnel action, including, without limitation, termination of employment, taken for reasons other than those prohibited pursuant to subsection 1; or

(II) Reassignment of an employee to prevent or eliminate any conflict of interest, as reasonably determined by the employer.

(b) "Candidate" has the meaning ascribed to it in NRS 294A.005.

(c) "Person" means:

(1) A natural person;

(2) Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or agency or unincorporated organization; or

(3) A government, governmental agency or political subdivision of a government.

Assemblyman Segerblom moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 433.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 59, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 634 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 9, which is attached to and hereby made a part of this report.

IRENE BUSTAMANTE ADAMS	JOHN LEE
DINA NEAL	JOE HARDY
JOHN ELLISON	JAMES SETTELMEYER
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA9.

AN ACT relating to the Open Meeting Law; requiring a public body to take certain actions if the Attorney General finds that the public body has violated the Open Meeting Law; authorizing the Attorney General to issue subpoenas during investigations of such violations; providing that meetings of a public body that are quasi-judicial in nature are subject to the Open Meeting Law **_ ;** ~~[under certain circumstances;]~~ requiring a public body to include certain notifications on an agenda for a public meeting; excluding a meeting held to consider an applicant for employment from certain notice requirements; making members of a public body subject to a civil penalty for violations; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

Section 1.5 of this bill provides that meetings of a public body **_, other than certain meetings of the State Board of Parole Commissioners,_** that are quasi-judicial in nature are subject to the provisions of the Open Meeting Law **_. ~~[unless exempted by the Legislative Commission. Section 1.5 also defines when a meeting is quasi-judicial in nature for purposes of the Open Meeting Law.]~~**

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

Under existing law, if a public body holds a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, it must first provide written notice of that fact and, if such a meeting will be closed, must allow the attendance of certain

individuals. Existing law also provides that casual or tangential references to a person or the person's name during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person. (NRS 241.033) **Section 6** of this bill provides that a meeting to consider an applicant for employment does not require prior notice to be given to the applicant.

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

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

Section 1. Chapter 241 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5, 2 and 3 of this act.

Sec. 1.5. ***1.*** ~~*[Meetings]*~~ ***Except as otherwise provided in subsection 2, meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter .*** ~~*[unless the public body has received an exemption from the Legislative Commission.*~~

~~*2. For the purposes of this section, a meeting is quasi-judicial in nature if it is judicial in character and the public body affords to each party in the meeting:*~~

~~*(a) The ability to present and object to evidence;*~~

~~*(b) The ability to cross-examine witnesses;*~~

~~*(c) A written decision; and*~~

~~*(d) An opportunity to appeal the written decision.]*~~

2. The provisions of subsection 1 do not apply to meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

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

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

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

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

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

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

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

1. "Action" means:

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

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

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

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

2. "Meeting":

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

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

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

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

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

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

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

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

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

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

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

(1) The Constitution of this State;

(2) Any statute of this State;

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

(4) The Nevada Administrative Code;

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

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

(7) A resolution or an action by the governing body of a political subdivision of this State;

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

(1) The Governor or a public officer who is under the direction of the Governor, if the board, commission or committee has at least two members who are not employees of the Executive Department of the State Government;

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

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

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

➥ "Public body" does not include the Legislature of the State of Nevada.

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

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

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

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

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

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

(c) An agenda consisting of:

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

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

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

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

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

(6) Notification that:

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

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

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

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

3. Minimum public notice is:

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

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

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

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

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

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

(a) An agenda for a public meeting;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

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

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

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

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

(c) Must include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 7. NRS 241.040 is hereby amended to read as follows:

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

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

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

4. ***In addition to any criminal penalty imposed pursuant to this section, each member of a public body who attends a meeting of that public body where action is taken in violation of any provision of this chapter, and who participates in such action with knowledge of the violation, is subject to a civil penalty in an amount not to exceed $500.*** The Attorney General ~~[shall investigate and prosecute any violation of this chapter.]~~ ***may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction. Such an action must be commenced within 1 year after the date of the action taken in violation of this chapter.***

Sec. 8. 1. This section and sections 1 and 2 to 7, inclusive, of this act become effective on July 1, 2011.

2. Section 1.5 of this act becomes effective on January 1, 2012.

Assemblywoman Bustamante Adams moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 59.

Remarks by Assemblywoman Bustamante Adams.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 498, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 621 of the Senate be receded from and a 2nd reprint be created in accordance with this action.

DAVID BOBZIEN	MO DENIS
APRIL MASTROLUCA	SHEILA LESLIE
LYNN STEWART	BARBARA CEGAVSKE
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Bobzien moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 498.

Remarks by Assemblyman Bobzien.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 257, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 591 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 6, which is attached to and hereby made a part of this report.

DINA NEAL	JOHN LEE
IRENE BUSTAMANTE ADAMS	JOE HARDY
JOHN ELLISON	JAMES SETTELMEYER
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA6.

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

Legislative Counsel's Digest:

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

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

Section 1. NRS 241.020 is hereby amended to read as follows:

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

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

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

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

(c) An agenda consisting of:

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

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items.

(3) ~~[A period]~~ ***Periods*** devoted to comments by the general public, if any, and discussion of those comments. ***Comments by the general public must be taken:***

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

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

➥ ***The provisions of this subparagraph do not prohibit a public body from taking comments by the general public in addition to what is required pursuant to sub-subparagraph (I) or (II). Regardless of whether a public body takes comments from the general public pursuant to sub-subparagraph (I) or (II), the public body must allow the general public to comment on any matter that is not specifically included on the agenda as an action item at some time before adjournment of the meeting.*** No action may be taken upon a matter raised ~~[under this item of the agenda]~~ ***during a period devoted to comments by the general public*** until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

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

name of the person whose character, alleged misconduct or professional competence will be considered.

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

3. Minimum public notice is:

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

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

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

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

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

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

(a) An agenda for a public meeting;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Assemblywoman Neal moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 257.

Remarks by Assemblywoman Neal.

Motion carried by a constitutional majority.

Senate Bill No. 72.

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

Motion carried.

Senate Bill No. 197.

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

Motion carried.

Senate Bill No. 227.

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

Motion carried.

Senate Bill No. 360.

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

Motion carried.

Senate Bill No. 371.

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

Motion carried.

Senate Bill No. 427.

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

Motion carried.

Senate Bill No. 428.

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

Motion carried.

Senate Bill No. 473.

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

Motion carried.

Senate Bill No. 493.

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

Motion carried.

Assemblyman Conklin moved that the Assembly recess until 11 a.m.
Motion carried.

Assembly in recess at 12:51 a.m.

ASSEMBLY IN SESSION

At 1:45 p.m.
Mr. Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Ways and Means has had under consideration the various budgets for the Department of Conservation and Natural Resources, and begs leave to report back that the following accounts have been closed by the Committee:

Forestry 101-4195
Forest Fire Suppression (101-4196)
Forestry Conservation Camps (101-4198)
Forestry Inter-Governmental Agreements (101-4227)
Forestry Nurseries (257-4235)
State Parks (101-4162)
Nevada Tahoe Regional Planning Agency (101-4166)
Division of Conservation Districts (101-4151)
Nevada Natural Heritage (101-4101)
Tahoe Regional Planning Agency (101-4204)

Mr. Speaker:

Your Committee on Ways and Means has had under consideration the various budgets for the Commission on Economic Development, and begs leave to report back that the following accounts have been closed by the Committee:

Commission on Economic Development (101-1526)
Nevada Film Office (101-1527)
Rural Community Development (101-1528)
Nevada Catalyst Fund (101-1529)
Procurement Outreach Program (101-4867)

Mr. Speaker:

Your Committee on Ways and Means has had under consideration the various budgets for the Office of the Governor, and begs leave to report back that the following accounts have been closed by the Committee:

Office of the Governor (101-1000)
Governor’s Mansion Maintenance (101-1001)
Governor’s Washington Office (101-1011)
State Fiscal Stabilization Account (101-1007)
High Level Nuclear Waste (101-1005)
Lieutenant Governor (101-1020)

Mr. Speaker:

Your Committee on Ways and Means has had under consideration the various budgets for the Department of Health and Human Services, Aging and Disability Services Division and begs leave to report back that the following accounts have been closed by the Committee:

Senior Rx and Disability Rx (262-3156)
Senior Citizens' Prop Tax Assistance (101-2363)
Tobacco Settlement Program (262-3140)
Home & Community Based Programs (101-3146)
Federal Programs and Administration (101-3151)
EPS/Homemaker Programs (101-3252)
Community Based Services (101-3266)
Idea Part C Compliance (101-3276)
Developmental Disabilities (101-3154)

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 581, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was referred Assembly Bill No. 527, 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 Assembly Bill No. 550, 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 Assembly Bill No. 553, 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 were referred Senate Bills Nos. 11, 425, 428, 473, 485, 486, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 469, 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. 314, 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*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 5, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 136.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Schneider, Breeden and Hardy as a Conference Committee concerning Senate Bill No. 99.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Breeden, Copening and Settelmeyer as a Conference Committee concerning Senate Bill No. 168.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Schneider, Copening and Settelmeyer as a Conference Committee concerning Senate Bill No. 294.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 193.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, June 6, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 114, 195, 332, 476, 484, 494, 526, 572.

Also, I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 561, 575, 576, 577; Senate Bill No. 438.

Also, I have the honor to inform your honorable body that the Senate on this day requested the Assembly to return Assembly Bill No. 78 back to the Senate for further consideration.

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. 524, Senate Amendment No. 803, 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. 525, Senate Amendment No. 878, and requests a conference, and appointed Senators Manendo, Lee and Rhoads 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 adopted the report of the Conference Committee concerning Assembly Bill No. 59.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 257.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 433.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 498.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 188, 349.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 434.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 932 to Senate Bill No. 320; Assembly Amendment No. 799 to Senate Bill No. 321; Assembly Amendment No. 953 to Senate Bill No. 421.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 933 to Senate Bill No. 276; Assembly Amendment No. 683 to Senate Bill No. 309; Assembly Amendment No. 944 to Senate Bill No. 439; Assembly Amendment No. 896 to Senate Bill No. 440.

Also, I have the honor to inform your honorable body that the Senate on this day adopted report of the Conference Committee concerning Senate Bill No. 136.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 200.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 268.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 365.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 78, returned from enrollment, be returned to the Senate.

Motion carried.

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

Assembly in recess at 1:52 p.m.

ASSEMBLY IN SESSION

At 1:53 p.m.

Mr. Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 188.

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

Motion carried.

Senate Bill No. 349.

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

Motion carried.

Senate Bill No. 434.

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

Motion carried.

Senate Bill No. 438.

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. 527.

Bill read third time.

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

Amendment No. 956.

AN ACT making an appropriation for the implementation and operation of a principal leadership training program; and providing other matters properly relating thereto.

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Department of Administration to contract with the Clark County Public Education Foundation the sum of ~~[$500,000]~~ **$100,000** for the implementation and operation of a principal leadership training program.

2. The Department of Administration may release the money appropriated by subsection 1 only upon receipt of evidence that the Clark County Public Education Foundation has matched or exceeded the appropriation from other sources.

Sec. 2. 1. The Clark County Public Education Foundation shall work in cooperation with the 17 school districts, other public education foundations in this State, and the Regional Professional Development training programs for the professional development of teachers and administrators created by NRS 391.512 to design and implement the training program.

2. The Clark County Public Education Foundation shall use the money appropriated by subsection 1 of section 1 of this act to implement and operate a principal leadership training program, including, without limitation:

(a) Personnel for the program;

(b) Equipment and supplies for the program;

(c) Research related to the design of a curriculum;

(d) Marketing to licensed principals throughout the State; and

(e) Data systems for the reporting of participation and results.

Sec. 3. Upon acceptance of the money appropriated by subsection 1 of section 1 of this act, the Clark County Public Education Foundation shall:

1. Prepare and transmit a report to the Director of the Legislative Counsel Bureau for transmission to the Interim Finance Committee on or before December 15, 2012, that describes each expenditure made from the money appropriated by subsection 1 of section 1 of this act from the date on which the money was received through December 1, 2012;

2. Prepare and transmit a final report to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee on or before September 20, 2013, that describes each expenditure made from the money appropriated by subsection 1 of section 1 of this act from the date on which the money was received through June 30, 2013; and

3. Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or

other records of information, confidential or otherwise, of the Clark County Public Education Foundation, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated by subsection 1 of section 1 of this act.

Sec. 4. Any remaining balance of the appropriation made by subsection 1 of section 1 of this act must not be committed for expenditure after June 30, 2013, by the entity to which the appropriation is made or any entity to which the 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. 5. This act becomes effective upon passage and approval.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 550.

Bill read third time.

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

Amendment No. 919.

SUMMARY— ~~[Provides for the construction, operation and maintenance of]~~ **Directs the Legislative Commission to conduct an interim study concerning** state ports of entry. (BDR ~~[35-892)]~~ **S-892)**

AN ACT relating to transportation; ~~[providing for the construction, operation and maintenance of]~~ **directing the Legislative Commission to conduct an interim study concerning** state ports of entry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, vehicles are subject to inspection by peace officers and other inspectors for issues such as safety, equipment, weight, load and emissions. (NRS 484D.560-484D.580, 484D.675; NAC 445B.769) This bill ~~[requires]~~ **directs** the ~~[Department of Transportation]~~ **Legislative Commission** to ~~[provide by regulation for the establishment, subject to the availability of funding, of]~~ **conduct an interim study concerning** state ports of entry, **which are facilities** at which drivers, vehicles and loads transported on vehicles are inspected for compliance with state and federal law.

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

Section 1. ~~[Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.]~~

1. The Legislative Commission shall appoint a committee to conduct an interim study concerning the feasibility of the creation and operation of ports of entry on highways within this State.

2. The committee appointed by the Legislative Commission pursuant to subsection 1 must be composed of six Legislators as follows:

(a) Three members appointed by the Majority Leader of the Senate, at least one of whom must be appointed from the membership of the Senate Standing Committee on Transportation during the immediately preceding session of the Legislature; and

(b) Three members appointed by the Speaker of the Assembly, at least one of whom must be appointed from the membership of the Assembly Standing Committee on Transportation during the immediately preceding session of the Legislature.

3. The study must include, without limitation:

(a) Consideration of the applicable provisions of federal law.

(b) An examination of the feasibility and cost of establishing permanent ports of entry on highways within this State.

(c) Consideration of the appropriate functions to be performed at or by ports of entry, including, without limitation, the inspection of drivers, vehicles and loads transported on vehicles for one or more of the following purposes:

(1) Size, weight and load restrictions applicable to commercial motor vehicles.

(2) Requirements applicable to the safety of commercial motor vehicles, including, without limitation, equipment required for the operation of commercial motor vehicles.

(3) Registration and permitting of commercial motor vehicles in accordance with applicable law.

(4) Transportation of hazardous materials in accordance with applicable law.

(5) Transportation of agricultural products, livestock and other animals in accordance with applicable law.

(6) Licensure and permitting of drivers in accordance with applicable law.

(7) Payment of required fees and taxes.

(8) Transportation of controlled substances, counterfeit merchandise and other articles of contraband.

(9) Such other purposes as may be determined to be necessary or appropriate.

(d) An examination of the advisability and usefulness of the following, as the following may relate to ports of entry:

(1) Cooperative agreements between the State of Nevada and other states for the operation and staffing of ports of entry.

(2) Partnerships with private businesses and contractors for the construction, operation, maintenance and staffing of ports of entry.

(3) Consultation between the State of Nevada and the Federal Government for purposes including, without limitation:

(I) Compliance with federal law.

(II) The inclusion of employees or contractors of the Federal Government as staff at ports of entry to enforce federal statutes and regulations.

(e) Consultation with:

(1) The Department of Transportation;

(2) The Department of Motor Vehicles;

(3) The Nevada Highway Patrol Division of the Department of Public Safety;

(4) The Surface Transportation Board;

(5) The Federal Motor Carrier Safety Administration of the United States Department of Transportation;

(6) Agencies of adjoining states having jurisdiction over matters relating to transportation; and

(7) Interstate motor carriers.

(f) An examination of any other matter that the committee determines to be relevant to the study.

4. The Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 77th Session of the Nevada Legislature.

5. As used in this section:

(a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(1) Has a gross combination weight rating of 26,001 or more pounds which includes a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(2) Has a gross vehicle weight rating of 26,001 or more pounds;

(3) Is designed to transport 16 or more passengers, including the driver; or

(4) Regardless of size, is used in the transportation of materials which are considered to be hazardous for the purposes of the federal Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 et seq., and

for which the display of identifying placards is required pursuant to 49 C.F.R. Part 172, Subpart F.

(b) "Hazardous material" means any substance or combination of substances, including any hazardous material, hazardous waste, hazardous substance or marine pollutant:

(1) Of a type and amount for which a vehicle transporting the substance must be placarded pursuant to 49 C.F.R. Part 172;

(2) Of a type and amount for which a uniform hazardous waste manifest is required pursuant to 40 C.F.R. Part 262; or

(3) Which is transported in bulk packaging, as defined in 49 C.F.R. § 171.8.

(c) "Port of entry" means a fixed or temporary facility:

(1) That is constructed, operated and maintained by the Department of Transportation or other appropriate state and local governmental entities, or both; and

(2) At which drivers, vehicles and loads transported on vehicles are inspected for compliance with state and federal laws.

Sec. 2. **(Deleted by amendment.)**

Sec. 3. **(Deleted by amendment.)**

Sec. 4. **(Deleted by amendment.)**

Sec. 5. **(Deleted by amendment.)**

Sec. 6. This act becomes effective ~~[upon passage and approval for the purpose of adopting regulations and]~~ on July 1, 2011**. ~~[, for all other purposes.]~~**

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 553.

Bill read third time.

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

Amendment No. 960.

AN ACT relating to the Public Employees' Benefits Program; revising provisions governing subsidies for the coverage of certain persons under the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, a state agency is required to pay a share of the costs of coverage under the Public Employees' Benefits Program of its active officers and employees. The amount of this share is established by the Legislature based on permanent, full-time employment. (NRS 287.044) Section 1 of this~~

~~bill provides for a proration of the amount of this subsidy for officers and employees who are not employed on a full-time basis.~~**]**

Existing law provides for the payment of a subsidy to cover a portion of the cost of coverage under the Public Employees' Benefits Program for certain retired officers and employees with state service. (NRS 287.046) **Section 2** of this bill provides that officers and employees initially hired **on or** after ~~**[July 1, 2011, with state service]**~~ **January 1, 2012, by the State** are not eligible for a subsidy upon retirement. ~~**[**The calculation of a subsidy for officers and employees with state service who are initially hired before July 1, 2011, and who retire after July 1, 2012, is also limited by section 2 to the person's number of years of full-time service as of June 30, 2012. Section 2 of this bill does not change the calculation of subsidies for: (1) persons who retired before January 1, 1994, and who receive the entire base funding level defined by the Legislature under existing law; and (2) persons who retired on or after January 1, 1994, but before July 1, 2012, and who receive the base funding level, as adjusted by their years of service, under existing law.**]** **Such persons may participate in the Program, paying the entire cost of that coverage, until they are eligible for coverage under an individual medical plan offered by Medicare.**

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

Section 1. ~~**[**NRS 287.044 is hereby amended to read as follows:~~

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

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

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

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

~~coverage for the state officer or employee and such dependents and the amount paid by the participating state agency that employs the officer or employee.~~

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

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

~~***7. If a state officer or employee:***~~

~~***(a) Works 75 percent or more of the full-time equivalent of his or her position, the employer shall pay to the Program 100 percent of the amount specified by law in accordance with subsection 1 for that person.***~~

~~***(b) Works half time or more but less than 75 percent of the full-time equivalent of his or her position, the employer shall pay to the Program 60 percent of the amount specified by law in accordance with subsection 1 for that person.***~~

~~***(c) Works less than half-time of the full-time equivalent of his or her position, the officer or employee is not eligible for any portion of the amount specified by law in accordance with subsection 1.]***~~ **(Deleted by amendment.)**

Sec. 2. NRS 287.046 is hereby amended to read as follows:

287.046 1. The Department of Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who ***were initially hired before*** ~~*[July 1, 2011,]*~~ ***January 1, 2012, and*** have retired with state service **.** **[**~~before January 1, 1994, or under the circumstances set forth in paragraph (a), (b) or (c) of subsection 3.~~**]**

2. The money assessed pursuant to subsection 1 must be deposited into the Retirees' Fund and must be based upon an amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for such retirees.

3. Except as otherwise provided in **[**~~subsection~~**]** **[**~~4,~~**]** ~~*[6,]*~~ ***subsections 7 and 8,*** the portion to be paid to the Program from the Retirees' Fund on behalf of such persons must be equal to a portion of the cost for each retiree and the retiree's dependents who are enrolled in the plan, as defined for each year of the plan by the Program.

[~~3.~~**]** **[**~~Adjustments~~**]**

4. Except as otherwise provided in subsection 6, the portion of the amount approved by the Legislature as described in subsection 2 to be paid to the Program from the Retirees' Fund for persons who retired before

January 1, 1994, with state service is the base funding level defined for each year of the plan by the Program.

5. Except as otherwise provided in ~~*[subsections 4 and 5,]*~~ ***subsection 6, adjustments*** to the portion ***of the amount approved by the Legislature*** ~~*[pursuant to]*~~ ***as described in subsection 2 to be*** paid by the Retirees' Fund ~~[must be as follows:~~

~~(a) For~~**]** ***for*** persons who retire on or after January 1, 1994, ~~*[but before July 1, 2012,]*~~ with state service ~~[~~**:**

~~(1)~~**]** ***must be as follows:***

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

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

~~[(b) For persons who are]~~

~~*[4. For the purposes of calculating the adjustment pursuant to subsection 3, the years of service of a person who retires on or after July 1, 2012, is limited to the years of full-time service of the person as of June 30, 2012.*~~

~~*5.]*~~ ***6. No money may be paid by the Retirees' Fund on behalf of a retired person who is*** initially hired by the State ~~[on]~~ ***:***

(a) On or after January 1, 2010, ***but before*** ~~*[July]*~~ ***January 1, 2012,*** and who ~~[retire with at least 15 years of service credit, which must include state service and may include local governmental service, and who have]~~ ***:***

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

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

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

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

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

~~4.]~~ ***(b) On or after*** ~~*[July]*~~ ***January 1, 2012. The provisions of this paragraph must not be construed to prohibit a retired person who was hired on or after January 1, 2012, from participating in the Program until the retired person is eligible for coverage under an individual medical plan offered pursuant to the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq. The retired person shall pay the entire premium or contribution for his or her participation in the Program.***

~~*[6.]*~~ ***7.*** If the amount calculated pursuant to subsection 3 ***or 4*** exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Program Fund.

~~[5.]~~ ~~*[7.]*~~ ***8.*** For the purposes of ~~[subsection 1:]~~ ***this section:***

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

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

~~[6.]~~ ~~*[8.]*~~ ***9.*** The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and the retired participant's dependents to the retired participant and to the retired participant's dependents who elect to continue coverage under the Program after the retired participant's death.

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

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 314.

Bill read third time.

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

Amendment No. 972.

AN ACT relating to real property; exempting property managers from certain registration and permitting requirements relating to the practice of asset management; providing for the registration and regulation of asset management companies; providing for the permitting and regulation of asset managers employed or independently contracted by asset management companies; setting forth the causes for disciplinary action for asset management companies and asset managers; prohibiting a purchaser of residential property from voluntarily waiving or being required to waive his or her right to a disclosure form; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure or registration and regulation of various professions in this State. (Title 54 of NRS) This bill provides for the registration, permitting and regulation of asset management companies and asset managers by the Real Estate Division of the Department of Business and Industry. Asset management companies provide asset management services for real property which is in foreclosure and which is owned by a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof, a mortgage holding entity chartered by Congress or a federal, state or local governmental entity. Such companies and persons manage the property, performing services such as securing the property by changing locks, removing trash and debris, cleaning the home and surrounding property, performing maintenance and repairs of homes and disposing of the personal property of homeowners left in homes which are in foreclosure and which the legal owner has deemed abandoned.

Section 13.5 of this bill exempts from the requirements of registration or requirement to obtain a separate permit a person who holds a current permit to engage in property management but requires the person to comply with the remaining provisions of this bill as well as those regulating the practice of property management. **Section 23** of this bill sets forth the requirements an asset management company must meet to be registered in this State, including criminal background checks on all principals, partners, directors and officers of the company. **Section 24** of this bill requires asset management companies to carry sufficient insurance to cover any damage to real property, any wrongful evictions or any wrongful disposal of the personal property of a homeowner or a tenant of a homeowner. **Section 27.5**

of this bill imposes a $2,000 application fee for registration as an asset management company, as well as a $500 fee for the issuance of a certificate of registration and an annual fee of $500 to renew the certificate of registration. **Section 29** of this bill requires all persons employed or independently contracted as an asset manager by an asset management company to obtain a permit from the Division, undergo a criminal background check at the expense of the asset manager and pay a fee of $75 for the issuance of the permit. **Section 29.1 requires a holder of a permit to annually submit a renewal application and pay a fee of $75 for the renewal of the permit.**

Sections 29.3-29.7, 30.3 and 30.7 of this bill set forth the actions for which an asset management company or asset manager may be investigated or disciplined and the procedures the Division is required to follow in conducting disciplinary action. **Section 31** of this bill specifies the services an asset management company may provide and the steps an asset management company must take before it may dispose of the personal property of a homeowner or a tenant of a homeowner, including storage of the property for 30 days in a secure location and notifying the homeowner or the tenant in writing of the disposal and where the property may be reclaimed. **Section 32** of this bill makes it a misdemeanor for a person to operate an asset management company in this State without being registered with the Division or for an asset manager to engage in asset management without a permit issued by the Division. **Section 33** of this bill makes it a misdemeanor for an asset management company or its agents to: (1) evict a real property owner or a tenant of a real property owner without a court order while the real property owner still has time to redeem his or her real property; (2) dispose of any personal property of a homeowner or a tenant of a homeowner except as provided in **section 31;** (3) seize real property that is not in foreclosure; (4) allow any work to be done on real property by a person who is not licensed to do that type of work or allow any work to be done on real property which requires a permit or an inspection unless the permit is obtained or inspection completed; (5) conduct any activities for which a real estate license or property management permit is required without such a license or permit; (6) fail to provide the real property disclosure to any purchaser of a residence for which the asset management company has provided services; or (7) receive, collect, hold or manage money which belongs to another person, including, without limitation, rent from a tenant, except in certain circumstances.

Existing law requires a seller to complete and serve a purchaser of residential property with a disclosure form regarding the property, but allows a purchaser to waive his or her right to receive such a form. (NRS 113.130) **Section 34** of this bill prohibits a purchaser from waiving, or a seller from

requiring a purchaser to waive, the purchaser's right to the disclosure form. In addition, **section 34** requires a seller to provide the purchaser with the contact information of any asset management company who repaired or replaced or attempted to repair or replace any defects in the property and requires the asset management company to provide the purchaser with a service report on the property upon request.

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 2 to 33, inclusive, of this act.

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

Sec. 3. ***"Administrator" means the Real Estate Administrator.***

Sec. 4. ***"Asset management" means to manage, oversee or direct actions taken to maintain any real property, including, without limitation, any actions taken to preserve, restore or improve the value and to lessen the risk of damage to the property on behalf of a client before a foreclosure sale or in preparation for liquidation of real property owned by the client pursuant to a foreclosure sale.***

Sec. 5. ***"Asset management company" means a person, limited-liability company, partnership, association or corporation which, for compensation and pursuant to a contractual agreement, power of attorney or other legal authorization, engages in asset management on behalf of:***

1. A bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof which is authorized to transact business in this State;

2. A mortgage holding entity chartered by Congress; or

3. A federal, state or local governmental entity.

Sec. 5.5. ***"Asset manager" means a person engaged in the business of asset management who is an employee or independent contractor of a registered asset management company.***

Sec. 6. ***"Client" means:***

1. A bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof that is authorized to transact business in this State;

2. A mortgage holding entity chartered by Congress; or

3. A federal, state or local governmental entity,

↪ for whom an asset management company provides asset management.

Sec. 7. *"Division" means the Real Estate Division of the Department of Business and Industry.*

Sec. 8. *"Foreclosure sale" means a sale of real property to enforce an obligation secured by a mortgage or lien on the property, including, without limitation, the exercise of a trustee's power of sale pursuant to NRS 107.080.*

Sec. 9. *"Homeowner" means the owner of record of a residence, including, without limitation, the owner of record of a residence in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded pursuant to NRS 14.010 or the notice of default and election to sell is recorded pursuant to NRS 107.080.*

Sec. 10. *"Mortgage banker" has the meaning ascribed to it in NRS 645E.100.*

Sec. 11. *"Mortgage broker" has the meaning ascribed to it in NRS 645B.0127.*

Sec. 11.3. *"Real property in foreclosure" includes, without limitation, a residence in foreclosure or commercial real property against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080*

Sec. 11.7. *"Real property owner" means the owner of record of real property, including, without limitation, a homeowner or an owner of real property in foreclosure.*

Sec. 12. *"Residence in foreclosure" means any residential real property consisting of:*

1. Not more than four family dwelling units, one of which the homeowner or a tenant of the homeowner occupies as his or her principal place of residence; or

2. A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units,

➥ against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080.

Sec. 12.5. *"Service report" means a written report on a form prescribed by the Division which is provided by an asset management company or asset manager and which lists the specific services performed on real property for a client.*

Sec. 13. *The provisions of this chapter do not apply to:*

1. A person who is a regular, full-time employee of a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof.

2. A person who takes possession of property from a defendant in connection with a judicial proceeding for eminent domain brought pursuant to chapter 37 of NRS.

Sec. 13.5. *1. The provisions of this chapter which require a certificate of registration or permit do not apply to a person or broker who has a current permit to engage in property management pursuant to chapter 645 of NRS.*

2. A person or broker who has a permit to engage in property management pursuant to chapter 645 of NRS may engage in the business of asset management if the provision of asset management services is included in the property management agreement entered into pursuant to NRS 645.6056.

3. Except as otherwise provided in subsection 1, a person or broker who engages in the business of asset management must comply with the provisions of this chapter and the recordkeeping requirements of chapter 645 of NRS.

Sec. 14. *1. The Division shall administer the provisions of this chapter and may employ legal counsel, investigators and other professional consultants necessary to discharge its duties pursuant to this chapter.*

2. An employee of the Division must not be employed by or have an interest in any business that manages residences in foreclosure or other assets.

3. An employee of the Division shall not act as an asset manager or as an agent for an asset management company.

Sec. 15. *The Division shall adopt:*

1. Regulations prescribing a standard of practice and code of ethics for registered asset management companies. The regulations must include, without limitation, provisions establishing the degree of care that must be exercised by a reasonably prudent registered asset management company.

2. Such other regulations as are necessary for the administration of this chapter.

Sec. 16. *1. The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically pursuant to title 59 of NRS with persons who are regulated pursuant to this chapter and with any other persons with whom the Division conducts business. The regulations may include, without limitation, provisions establishing fees to pay the costs of conducting business electronically with the Division.*

2. In addition to the provisions of NRS 719.280, if the Division conducts business electronically with a person and a law requires a

signature or record to be notarized, acknowledged, verified or made under oath, the Division may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 to satisfy the legal requirement.

3. The Division may refuse to conduct business electronically with a person who has failed to pay any money which the person owes to the Division.

Sec. 16.5. ***1. The Division may inspect any service report, contractual agreement, power of attorney or other legal authorization entered into by an asset management company and a client to ensure compliance with the provisions of this chapter.***

2. The Division shall adopt regulations pertaining to those inspections.

Sec. 17. ***1. In addition to any other remedy or penalty, the Division may impose an administrative fine against any person who knowingly:***

(a) Engages or offers to engage in any activity for which a certificate of registration or permit or any other authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate of registration or permit or has not received the required authorization; or

(b) Assists or offers to assist another person in the commission of a violation described in paragraph (a).

2. If the Division imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine must not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever is greater.

3. In determining the appropriate amount of the administrative fine, the Division shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Division deems to be relevant.

4. Before the Division may impose the administrative fine, the Division must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Division in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the provisions of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 18. *1. The Division shall maintain a record of:*

(a) Persons whose applications for registration have been denied;

(b) Formal disciplinary proceedings and any investigations conducted by the Division which result in the initiation of those proceedings; and

(c) Rulings or decisions upon complaints filed with the Division.

2. Except as otherwise provided in this section and section 19 of this act, records kept in the office of the Division pursuant to this chapter are open to the public for inspection pursuant to regulations adopted by the Division. Except as otherwise provided in NRS 239.0115, the Division may keep confidential, unless otherwise ordered by a court any criminal and financial records of an asset management company or applicant for a certificate of registration.

Sec. 19. *1. Except as otherwise provided in this section and section 18 of this act, a complaint filed with the Division, all documents and other information filed with the Division relating to the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement entity, that is investigating a person who holds a certificate of registration or permit issued pursuant to this chapter.*

2. The complaint or other document filed by the Division to initiate disciplinary action and all documents and information considered by the Division when determining whether to impose discipline are public records.

Sec. 20. *1. All fees and administrative fines received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund.*

2. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.

Sec. 21. *1. The Attorney General shall render to the Division opinions upon questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, submitted to the Attorney General by the Division.*

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter.

Sec. 22. *If the Division imposes an administrative fine or collects a fee for registering an asset management company or issuing or renewing a*

permit to an asset manager, the Division shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.

Sec. 23. ***1. A person who wishes to be registered as an asset management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee required pursuant to section 27.5 of this act. An application must:***

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the asset management company will conduct business within this State;

(b) State the name under which the applicant will conduct business as an asset management company;

(c) List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the asset management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person;

(d) Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the asset management company as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(e) Include a statement signed by the applicant attesting that the applicant has read and understands the provisions of sections 29.5 to 33, inclusive, of this act.

2. Except as otherwise provided in this chapter the Division shall issue a certificate of registration to an applicant as an asset management company if:

(a) The application is verified by the Division and complies with the requirements of this chapter.

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Submits satisfactory proof to the Division that he or she has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an asset management company in a manner which safeguards the interests of the general public.

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of asset management or any crime involving fraud, misrepresentation or moral turpitude.

(3) Has not made a false statement of material fact on his or her application.

(4) Has not had a professional license that was issued in this State or any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of application.

(5) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Administrator.

(c) The applicant certifies that he or she:

(1) Has a process in place to verify that each employee or independent contractor that performs services as directed by the asset management company or an asset manager employed by or under contract with the asset management company is the holder of a license in good standing in this State to perform the services for which the asset management company will use the employee or independent contractor.

(2) Has a process in place to review the work of each independent contractor that performs services as directed by the asset management company or an asset manager employed by or under contract with the asset management company to ensure that those services are conducted in accordance with all applicable laws and regulations of this State.

(3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.

(d) The applicant submits proof that he or she possesses all business licenses and permits required to do business in this State.

Sec. 24. *1. Before issuing any certificate of registration or annual renewal thereof, the Division shall require satisfactory proof that the asset management company:*

(a) Is covered by a policy of insurance written by an insurance company authorized to do business in this State which is sufficient to reimburse real property owners for, without limitation, any damage to real property in foreclosure, the wrongful disposal of property or wrongful eviction; or

(b) Possesses and will continue to possess sufficient means to act as a self-insurer against that liability.

2. Every asset management company shall maintain the policy of insurance or self-insurance required by this section. The registration of every such asset management company is automatically suspended 10 days after receipt by the asset management company of a notice from the Division that the required insurance is not in effect, unless satisfactory proof of insurance is provided to the Division within that period.

3. Proof of insurance or self-insurance must be in such a form as the Division may require.

Sec. 25. *1. If an asset management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the asset management company.*

2. As used in this section, "qualified employee" means:

(a) A director, officer, member, employee, manager or trustee of a partnership, corporation or limited-liability company designated by the partnership, corporation or limited-liability company to act on the behalf of the partnership, corporation or limited-liability company; or

(b) A person designated by a sole proprietorship who satisfies the requirements set forth in subsection 2 of section 23 of this act.

Sec. 26. *1. In addition to any other requirements set forth in this chapter, an applicant for the issuance of a certificate of registration as an asset management company or a permit to engage in asset management shall:*

(a) Include the social security number of the applicant in the application submitted to the Division.

(b) Submit to the Division 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 Division 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 permit; or

(b) A separate form prescribed by the Division.

3. A certificate of registration or permit may not be issued or renewed by the Division pursuant to this chapter 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 Division 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. ***A certificate of registration issued pursuant to this chapter expires each year on the date of its issuance, unless it is renewed. To renew the certificate of registration, the registrant must submit to the Division on or before the expiration date:***

1. An application for renewal;

2. The fee required to renew the certificate of registration pursuant to section 27.5 of this act; and

3. All information required to complete the renewal.

Sec. 27.5. ***1. A person must pay the following fees for the issuance or renewal of a certificate of registration as an asset management company:***

(a) For the issuance of a certificate of registration, an application fee of $2,000 for the principal office and a fee of $500 for the issuance of the initial certificate of registration.

(b) For the renewal of a certificate of registration, a fee of $500.

2. The following fees must be charged by and paid to the Division:

For each issuance of a duplicate registration or permit.....$50
For each change in the name or location of a business.....20
For each change in the name or business address of a holder of a permit.....20

Sec. 28. (Deleted by amendment.)

Sec. 29. ***1. A person in this State who is employed or independently contracted as an asset manager by an asset management company shall apply to the Division for a permit to engage in asset management and pay a fee of $75 for the issuance of the permit.***

2. An applicant for a permit must:

(a) At his or her own expense:

(1) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(2) Submit to the Division:

(I) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(II) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken by a law enforcement agency or other authorized entity and directly forwarded by electronic or other means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other

authorized entity to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary;

(b) Submit to the Division a signed statement attesting that the applicant has read and understands the provisions of sections 29.5 to 33, inclusive, of this act; and

(c) Comply with all other requirements established by the Division for the issuance of a permit.

3. The Division may:

(a) Unless the applicant's fingerprints are forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (a) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Division deems necessary.

Sec. 29.1. ***A permit issued pursuant to section 29 of this act expires 1 year after the date of issuance, unless it is renewed. To renew the permit, the registrant must submit to the Division on or before the date of expiration:***

1. An application for renewal;

2. A fee of $75; and

3. All information required to complete the renewal.

Sec. 29.3. ***1. The Administrator may investigate the actions of any asset management company or asset manager or any person who acts in any such capacity within this State.***

2. The provisions of this chapter do not limit the authority of the Division to take disciplinary action against a registered asset management company or permit holder for a violation of any of the provisions of this chapter or any regulation adopted pursuant to this chapter, nor does the payment in full of all obligations through any insurance proceeds nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of this chapter or any regulation adopted pursuant to this chapter.

Sec. 29.5. ***1. The Division may require an asset management company or asset manager to pay an administrative fine of not more than $10,000 for each violation he or she commits or suspend, revoke, deny the renewal of or place conditions upon his or her certificate of registration or permit, or impose any combination of those actions, at any time if the asset management company or asset manager has, by false or fraudulent representation, obtained a certificate of registration or permit, or the asset***

management company or asset manager, whether or not acting as such, is found guilty of:

(a) Making any material misrepresentation.

(b) Making any false promises of a character likely to influence, persuade or induce.

(c) Failing to maintain, for review and audit by the Division, each service report, contractual agreement, power of attorney or other legal authorization entered into with a client and governed by the provisions of this chapter.

(d) Accepting or collecting any money which belongs to another person.

(e) Violating any order of the Division, any agreement with the Division, any of the provisions of this chapter or chapters 116, 119, 119A, 119B, 645, 645A or 645C of NRS or any regulation adopted pursuant thereto.

(f) Paying a commission, compensation or a finder's fee to any person for performing the services of an asset management company or asset manager who does not have a certificate of registration or permit in this State.

(g) A conviction of, or the entry of a plea of guilty, guilty but mentally ill or nolo contendere to:

(1) A felony relating to the practice of the asset management company or asset manager; or

(2) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

(h) Gross negligence or incompetence in performing any act for which the person is required to hold a certificate of registration, permit or license pursuant to this chapter or chapter 119, 119A, 119B or 645 of NRS.

(i) Any other conduct which constitutes deceitful, fraudulent or dishonest dealing.

(j) Any conduct which took place before the person obtained his or her certificate of registration or permit which was unknown to the Division and which would have been grounds for denial of the certificate of registration or permit had the Division been aware of the conduct.

(k) Knowingly allowing any person whose certificate of registration or permit has been revoked to act as an asset management company or asset manager with or on behalf of the asset management company or asset manager.

(l) Failing to maintain insurance at the level required pursuant to this chapter.

(m) Failing to produce any document, book or record in his or her possession, or under his or her control, concerning any real estate transaction or asset management service under investigation by the Division.

2. The Division may take action pursuant to this section against a person who is subject to this chapter for the suspension or revocation of a certificate of registration issued to an asset management company or a permit issued to an asset manager by any other jurisdiction.

3. The Division may take action pursuant to this section against any person who:

(a) Is a registered asset management company or holds a permit as an asset manager pursuant to this chapter; and

(b) In connection with any property for which the person is engaging in the business of asset management pursuant to this chapter:

(1) Is convicted of violating any of the provisions of NRS 202.470;

(2) Has been notified in writing by the appropriate governmental agency of a potential violation of NRS 244.360, 244.3603 or 268.4124 and has failed to inform the owner of the property of such notification; or

(3) Has been directed in writing by the owner of the property to correct a potential violation of NRS 244.360, 244.3603 or 268.4124 and has failed to correct the potential violation, if such corrective action is within the scope of the person's duties pursuant to a contract power of attorney or other legal authorization entered into with a client.

4. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may take action against a person holding a certificate of registration or permit to engage in the business of asset management pursuant to this chapter.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 29.7. *In addition to any other remedy or penalty, the Division may:*

1. Refuse to issue a certificate of registration or permit to a person who has failed to pay any money which the person owes to the Division.

2. Refuse to renew, or suspend or revoke, the certificate of registration or permit of a person who has failed to pay that money.

Sec. 30. *1. If the Division 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 holder of a certificate of registration or permit, the Division shall deem the certificate of registration or permit to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the certificate of registration or permit by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate of registration or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. The Division shall reinstate a certificate of registration or permit that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the certificate of registration or permit stating that the holder of the certificate of registration or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 30.3. *1. Any unlawful act or violation of any of the provisions of this chapter by any asset management company or asset manager is not cause to suspend, revoke or deny the renewal of the certificate of registration or permit of an asset management company or asset manager associated with an asset management company or asset manager, unless it appears to the satisfaction of the Division that the associate knew or should have known thereof. A course of dealing shown to have been persistently and consistently followed by any asset management company or asset manager constitutes prima facie evidence of such knowledge upon the part of the associate.*

2. If it appears that a registered asset management company knew or should have known of any unlawful act or violation on the part of an asset manager employed by the asset management company, in the course of his or her employment, the Division may suspend, revoke or deny the renewal of the certificate of registration of the asset management company and may assess a civil penalty of not more than $5,000.

3. The Division may suspend, revoke or deny the renewal of the certificate of registration of an asset management company and may assess a civil penalty of not more than $5,000 against the asset management company if it appears that the asset management company has failed to maintain adequate supervision of an asset manager associated with the asset management company and that asset manager commits any unlawful act or violates any provision of this chapter.

Sec. 30.7. *The expiration or revocation of a certificate of registration or permit by operation of law or by order or decision of the Division or a court of competent jurisdiction or the voluntary surrender of a certificate of registration or a permit by an asset management company or asset manager does not:*

1. Prohibit the Administrator or Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the asset management company or asset manager as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the asset management company or asset manager.

Sec. 31. ***1. Subject to the provisions of section 33 of this act, the services an asset management company may provide include, without limitation:***

(a) Securing real property in foreclosure once it has been determined to be abandoned and all notice provisions required by law have been complied with;

(b) Providing maintenance for real property in foreclosure, including landscape and pool maintenance;

(c) Cleaning the interior or exterior of real property in foreclosure;

(d) Providing repair or improvements for real property in foreclosure; and

(e) Removing trash and debris from real property in foreclosure and the surrounding property.

2. An asset management company may dispose of personal property abandoned on the premises of a residence in foreclosure or left on the premises after the eviction of a homeowner or a tenant of a homeowner without incurring civil or criminal liability in the following manner:

(a) The asset management company shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the homeowner or the tenant of the homeowner or his or her authorized representative rightfully claiming the property within that period. The asset management company is liable to the homeowner or the tenant of the homeowner only for the asset management company's negligent or wrongful acts in storing the property.

(b) After the expiration of the 30-day period, the asset management company may dispose of the property and recover his or her reasonable costs from the property or the value thereof if the asset management company has made reasonable efforts to locate the homeowner or the tenant of the homeowner, has notified the homeowner or the tenant of the homeowner in writing of his or her intention to dispose of the property and 14 days have elapsed since the notice was given to the homeowner or the tenant of the homeowner. The notice must be mailed to the homeowner or the tenant of the homeowner at the present address of the homeowner or the tenant of the homeowner and, if that address is unknown, then at the last known address of the homeowner or the tenant of the homeowner.

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

3. Any dispute relating to the amount of the costs claimed by the asset management company pursuant to paragraph (a) of subsection 2 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Sec. 31.3. *1. An asset management company that is a natural person or an asset manager shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to, a felony or any offense involving moral turpitude.*

2. An asset management company that is a natural person or an asset manager shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and

(b) When submitting an application to renew a certificate of registration or permit issued pursuant to this chapter.

Sec. 31.5. *1. An applicant for a certificate of registration pursuant to section 23 of this act or a permit pursuant to section 29 of this act shall file with the Division, on a form prescribed by a regulation adopted by the Division, an irrevocable consent appointing the Administrator as his or her agent for service of process in a noncriminal proceeding against the applicant, a successor or personal representative which arises under this chapter or a regulation adopted pursuant to this chapter after the consent is filed, with the same force and validity as if served personally on the person filing the consent.*

2. A person who has filed an irrevocable consent in accordance with subsection 1 in connection with a previous application for a certificate of registration or permit is not required to file an additional consent.

3. If a person, including a nonresident of this State, engages in conduct prohibited or made actionable by this chapter or a regulation adopted pursuant to this chapter and the person has not filed an irrevocable consent to service of process in accordance with subsection 1, engaging in the conduct constitutes the appointment of the Administrator as the person's agent for service of process in a noncriminal proceeding against the person, a successor or personal representative which arises out of the conduct.

4. Service under subsection 1 or 3 may be made by leaving a copy of the process in the Office of the Administrator, but it is not effective unless:

(a) The plaintiff, who may be the Administrator, sends notice of the service and a copy of the process by registered or certified mail, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if no consent to service of process has been filed, at the last known address, or takes other steps which are reasonably calculated to give actual notice; and

(b) The plaintiff files an affidavit of compliance with this subsection in the proceeding on or before the return day of the process, if any, or within such further time as the court, or the Administrator in a proceeding before the Administrator, allows.

5. Service as provided in subsection 4 may be used in a proceeding before the Administrator or by the Administrator in a proceeding in which the Administrator is the moving party.

6. If the process is served under subsection 4, the court, or the Administrator in a proceeding before the Administrator, may order continuances as may be necessary to afford the defendant or respondent a reasonable opportunity to defend.

Sec. 31.7. *In any proceeding pursuant to this chapter, the Administrator may appoint hearing officers from the Department of Business and Industry who shall act as his or her agents and conduct any hearing or investigation which may be conducted by the Administrator pursuant to the provisions of this chapter.*

Sec. 32. *1. It is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an asset management company without first obtaining a certificate of registration from the Division pursuant to section 23 of this act.*

2. It is unlawful for any asset manager to engage in the business of asset management without first obtaining a permit from the Division pursuant to section 29 of this act.

3. A person who violates a provision of this section is guilty of a misdemeanor.

Sec. 33. *1. It is unlawful for an asset management company or an asset manager or other employee, director, officer or agent of an asset management company to:*

(a) Unless the asset management company is acting pursuant to a court order, evict a real property owner or a tenant of a real property owner until after the time during which the real property owner may redeem the real property in foreclosure.

(b) Dispose of the personal property of a homeowner or a tenant of a homeowner except as provided in section 31 of this act.

(c) Seize real property for a client which is not real property in foreclosure.

(d) Perform any repair, maintenance or renovation on the real property in foreclosure:

(1) Which is required to be performed by a person holding a license unless such repair, maintenance or renovation is done by a person licensed in this State to perform such repair, maintenance or renovation; or

(2) Which requires a permit or inspection by any governmental entity in this State, unless the permit is first obtained and the inspection is performed after completion.

(e) Conduct any activity for which a license or permit is required pursuant to chapter 645 of NRS without first obtaining such a license or permit.

(f) Fail to provide the disclosure form required pursuant to NRS 113.130 for a purchaser of a residence in foreclosure for which the asset management company or its asset manager, employee, director, officer or agent has provided asset management.

(g) Receive, collect, hold or manage any money which belongs to another person, including, without limitation, collecting or managing rent from a tenant unless the person holds a permit as a property manager pursuant to chapter 645 of NRS and is receiving, collecting, holding or managing the money pursuant to a property management agreement.

2. A person who violates a provision of this section is guilty of a misdemeanor.

Sec. 33.3. Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A broker who enters into an agreement to provide asset management services to a client shall:

(a) Disclose annually to the Division any such agreements to provide asset management services to a client; and

(b) Provide proof satisfactory to the Division on an annual basis that the broker has complied with the requirements of section 24 of this act.

2. In addition to any other remedy or penalty, the Division may take administrative action, including, without limitation, the suspension of a license or permit or the imposition of an administrative fine, against a broker who fails to comply with this section.

3. As used in this section:

(a) "Asset management" has the meaning ascribed to it in section 4 of this act.

(b) "Client" has the meaning ascribed to it in section 6 of this act.

Sec. 33.7. NRS 645.6056 is hereby amended to read as follows:

645.6056 1. A real estate broker who holds a permit to engage in property management shall not act as a property manager unless the broker has first obtained a property management agreement signed by the broker and the client for whom the broker will manage the property.

2. A property management agreement must include, without limitation:

(a) The term of the agreement and, if the agreement is subject to renewal, provisions clearly setting forth the circumstances under which the agreement may be renewed and the term of each such renewal;

(b) A provision for the retention and disposition of deposits of the tenants of the property during the term of the agreement and, if the agreement is subject to renewal, during the term of each such renewal;

(c) The fee or compensation to be paid to the broker;

(d) The extent to which the broker may act as the agent of the client; ~~[and]~~

(e) If the agreement is subject to cancellation, provisions clearly setting forth the circumstances under which the agreement may be cancelled. The agreement may authorize the broker or the client, or both, to cancel the agreement with cause or without cause, or both, under the circumstances set forth in the agreement ~~[.]~~ ***; and***

(f) If the broker intends to provide asset management services for the client, a provision indicating the extent to which the broker will provide those services. As used in this paragraph, "client" has the meaning ascribed to it in section 6 of this act.

Sec. 34. NRS 113.130 is hereby amended to read as follows:

113.130 1. Except as otherwise provided in ~~[subsections]~~ ***subsection*** 2 ***:*** ~~[and 3:]~~

(a) At least 10 days before residential property is conveyed to a purchaser:

(1) The seller shall complete a disclosure form regarding the residential property; and

(2) The seller or the seller's agent shall serve the purchaser or the purchaser's agent with the completed disclosure form.

(b) If, after service of the completed disclosure form but before conveyance of the property to the purchaser, a seller or the seller's agent discovers a new defect in the residential property that was not identified on the completed disclosure form or discovers that a defect identified on the completed disclosure form has become worse than was indicated on the form, the seller or the seller's agent shall inform the purchaser or the purchaser's agent of that fact, in writing, as soon as practicable after the discovery of that fact but in no event later than the conveyance of the property to the purchaser. If the seller does not agree to repair or replace the defect, the purchaser may:

(1) Rescind the agreement to purchase the property; or

(2) Close escrow and accept the property with the defect as revealed by the seller or the seller's agent without further recourse.

2. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) Which is the first sale of a residence that was constructed by a licensed contractor.

(d) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person

who relocates to another county, state or country before title to the property is transferred to a purchaser.

3. A purchaser of residential property may ***not*** waive any of the requirements of subsection 1. ~~[Any such waiver is effective only if it is made in a written document that is signed by the purchaser and notarized.]~~ ***A seller of residential property may not require a purchaser to waive any of the requirements of subsection 1 as a condition of sale or for any other purpose.***

4. If a sale or intended sale of residential property is exempted from the requirements of subsection 1 pursuant to paragraph (a) of subsection 2, the trustee and the beneficiary of the deed of trust shall, not later than at the time of the conveyance of the property to the purchaser of the residential property, ***or upon the request of the purchaser of the residential property,*** provide ~~[written]~~ ***:***

(a) Written notice to the purchaser of any defects in the property of which the trustee or beneficiary, respectively, is aware ~~[.]~~ ***; and***

(b) If any defects are repaired or replaced or attempted to be repaired or replaced, the contact information of any asset management company who provided asset management services for the property. The asset management company shall provide a service report to the purchaser upon request.

5. As used in this section:

(a) "Seller" includes, without limitation, a client as defined in section 6 of this act.

(b) "Service report" has the meaning ascribed to it in section 12.5 of this act.

Sec. 35. 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, an applicant for the issuance of a certificate of registration as an asset management company or a permit to engage in asset management shall ~~[~~:

~~(a) Include the social security number of the applicant in the application submitted to the Division.~~

~~(b) Submit]~~ ***submit*** to the Division 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 Division 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 permit; or

(b) A separate form prescribed by the Division.

3. A certificate of registration or permit may not be issued or renewed by the Division pursuant to this chapter 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 Division 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. 36. The Real Estate Division of the Department of Business and Industry shall, on or before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 37. 1. This section, sections 1 to 34, inclusive, and section 36 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

2. Section 35 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 of the support of one or more children,

➥ are repealed by the Congress of the United States.

3. Sections 30 and 35 of this act expire by limitation 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 Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 149.

Bill read third time.

Roll call on Senate Bill No. 149:

YEAS—41.

NAYS—None.

EXCUSED—Sherwood.

Senate Bill No. 149 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 437.

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 2:02 p.m.

ASSEMBLY IN SESSION

At 2:03 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Pierce moved to withdraw Amendment No. 931 to Senate Bill No 437.

Motion carried.

GENERAL FILE AND THIRD READING

Roll call on Senate Bill No. 437:

YEAS—41.

NAYS—None.

EXCUSED—Sherwood.

Senate Bill No. 437 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 483.

Bill read third time.

The following amendment was proposed by Assemblyman Goicoechea:

Amendment No. 968.

AN ACT relating to the Department of Motor Vehicles; authorizing the Department to enter into certain agreements relating to advertising; authorizing the Director of the Department to release certain information to certain persons; ~~[transferring the authority to adopt specifications for motor vehicle fuel from the State Board of Agriculture to the Department;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, it is unlawful for any person to erect any bulletin board or other advertising device on the grounds of the State Capitol or on any other state building or property. (NRS 331.200) **Section 1** of this bill authorizes the Director of the Department of Motor Vehicles to enter into agreements for the placement of advertising in areas of buildings owned or occupied by the Department. Any money collected by the Department from such advertising must be deposited in the Motor Vehicle Fund and used to offset the costs of communicating with the public. **Section 3.5** of this bill requires the Department to make certain reports to the Interim Finance Committee concerning such agreements.

Existing law prohibits the Director from disclosing certain information, including personally identifiable information, except to certain persons. **Section 1.5** of this bill authorizes the Director to disclose certain information to a person who, pursuant to a contract with the Department, requests such information for the purpose of an advisory notice relating to a motor vehicle or the recall of a motor vehicle or for providing information concerning the history of a vehicle.

~~[Existing law requires the State Board of Agriculture to adopt specifications for motor vehicle fuel and to enforce such specifications. (NRS 590.070, 590.071) Sections 2.3 and 2.5 of this bill transfer this authority to the Department of Motor Vehicles. Section 3.3 of this bill provides that the Department may enforce any regulations adopted by the Board concerning specifications for motor vehicle fuel until the Department adopts new regulations to repeal or replace the regulations adopted by the Board.]~~

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

Section 1. Chapter 481 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director may enter into an agreement with a person for the placement of advertisements in areas of buildings owned or occupied by the Department that are frequented by the public.

2. A person who enters into an agreement with the Director pursuant to subsection 1 shall ensure that each advertisement placed pursuant to the agreement does not inhibit or disrupt the functioning of the Department.

3. Any money collected by the Department from an agreement entered into pursuant to subsection 1 must be:

(a) Deposited with the State Treasurer for credit to the Motor Vehicle Fund; and

(b) Used to offset the costs of communicating with the public.

4. The Director may adopt regulations to carry out the provisions of this section.

Sec. 1.5. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection ~~[5,]~~ ***6,*** the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 4,*** the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

➥ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. ***If a person is authorized to obtain such information pursuant to a contract entered into with the Department and if such information is requested for the purpose of an advisory notice relating to a motor vehicle or the recall of a motor vehicle or for the purpose of providing information concerning the history of a vehicle, the Director may release:***

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department; or

(b) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

5. Except as otherwise provided in subsections 2 ***, 4*** and ~~[~~5~~]~~ ***6*** and NRS 483.294, 483.855 and 483.937, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

~~[~~5.~~]~~ ***6.*** Except as otherwise provided in paragraph (a) and subsection ~~[~~6,~~]~~ ***7,*** if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

(1) The safety of drivers of motor vehicles;

(2) Safety and thefts of motor vehicles;

(3) Emissions from motor vehicles;

(4) Alterations of products related to motor vehicles;

(5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;

(6) Monitoring the performance of motor vehicles;

(7) Parts or accessories of motor vehicles;

(8) Dealers of motor vehicles; or

(9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrol officer or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

~~[6.]~~ ***7.*** Except as otherwise provided in paragraph (j) of subsection ~~[5.]~~ ***6,*** a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection ~~[5.]~~ ***6.*** Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➥ The record must be made available for examination by the Department at all reasonable times upon request.

~~[7.]~~ ***8.*** Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if the Director reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

~~[8.]~~ ***9.*** Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the system created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that system.

~~[9.]~~ ***10.*** The Director shall adopt such regulations as the Director deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate the person's ability to request information electronically or by written request if the person has submitted to the Department proof of employment or licensure, as applicable, and a signed and notarized affidavit acknowledging that the person:

(a) Has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) Understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) Understands that a record will be maintained by the Department of any information he or she requests; and

(d) Understands that a violation of the provisions of this section is a criminal offense.

~~[10.]~~ ***11.*** It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

~~[11.]~~ ***12.*** As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his or her photograph, social security number, driver's license number, identification card number, name, address, telephone number or

information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his or her full address, information regarding vehicular accidents or driving violations in which he or she has been involved or other information otherwise affecting his or her status as a driver.

Sec. 2. NRS 331.200 is hereby amended to read as follows:

331.200 1. It shall be unlawful for any person to commit any of the following acts upon the grounds of the State Capitol or of any other state building or property:

(a) Willfully deface, break down or destroy any fence upon or surrounding such grounds;

(b) ~~[Erect]~~ ***Except as otherwise provided in section 1 of this act, erect*** any bulletin board or other advertising device in or upon such grounds;

(c) Deposit any garbage, debris or other obstruction in or upon such grounds;

(d) Injure, break down or destroy any tree, shrub or other thing upon such grounds; or

(e) Injure the grass upon such grounds by walking upon it.

2. Any person violating any of the provisions of this section shall be guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged or destroyed, and in no event less than a misdemeanor.

Sec. 2.3. ~~[NRS 590.070 is hereby amended to read as follows:~~

~~590.070 1. The [State Board of Agriculture] *Department of Motor Vehicles* shall adopt by regulation specifications for motor vehicle fuel:~~

~~(a) Based upon scientific evidence which demonstrates that any motor vehicle fuel which is produced in accordance with the specifications is of sufficient quality to ensure appropriate performance when used in a motor vehicle in this State; or~~

~~(b) Proposed by an air pollution control agency to attain or maintain national ambient air quality standards in any area of this State. As used in this paragraph, "air pollution control agency" means any federal air pollution control agency or any state, regional or local agency that has the authority pursuant to chapter 445B of NRS to regulate or control air pollution or air quality in any area of this State.~~

~~2. The [State Board of Agriculture] *Department of Motor Vehicles* shall adopt by regulation procedures for allowing variances from the specifications for motor vehicle fuel adopted pursuant to this section.~~

~~3. It is unlawful for any person, or any officer, agent or employee thereof, to sell, offer for sale, assist in the sale of, deliver or permit to be sold or offered for sale, any petroleum or petroleum product as, or purporting to be, motor vehicle fuel, unless it conforms with the regulations adopted by the~~

~~[State Board of Agriculture] *Department of Motor Vehicles* pursuant to this section.~~

~~4. This section does not apply to aviation fuel.~~

~~5. In addition to any criminal penalty that is imposed pursuant to the provisions of NRS 590.150, any person who violates any provision of this section may be further punished as provided in NRS 590.071.]~~ **(Deleted by amendment.)**

Sec. 2.5. ~~[NRS 590.071 is hereby amended to read as follows:~~

~~590.071 1. The [State Board of Agriculture] *Department of Motor Vehicles* shall:~~

~~(a) Enforce the specifications for motor vehicle fuel adopted by regulation pursuant to NRS 590.070.~~

~~(b) Adopt regulations specifying a schedule of fines that it may impose, upon notice and hearing, for each violation of the provisions of NRS 590.070. The maximum fine that may be imposed by the [Board] *Department of Motor Vehicles* for each violation must not exceed $5,000 per day. All fines collected by the [Board] *Department of Motor Vehicles* pursuant to the regulations adopted pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.~~

~~2. The [State Board of Agriculture] *Department of Motor Vehicles* may:~~

~~(a) In addition to imposing a fine pursuant to subsection 1, issue an order requiring a violator to take appropriate action to correct the violation.~~

~~(b) Request the district attorney of the appropriate county to investigate or file a criminal complaint against any person that the [Board] *Department of Motor Vehicles* suspects may have violated any provision of NRS 590.070.]~~ **(Deleted by amendment.)**

Sec. 2.7. ~~[NRS 590.100 is hereby amended to read as follows:~~

~~590.100 [The] *Except as otherwise provided in NRS 590.070 and 590.071, the* State Sealer of Weights and Measures is charged with the proper enforcement of NRS 590.010 to 590.150, inclusive, and has the following powers and duties:~~

~~1. The State Sealer of Weights and Measures may publish reports relating to petroleum products and motor vehicle fuel in such form and at such times as he or she deems necessary.~~

~~2. The State Sealer of Weights and Measures, or the appointees thereof, shall inspect and check the accuracy of all measuring devices for petroleum products and motor vehicle fuel maintained in this State, and shall seal all such devices whose tolerances are found to be within those prescribed by the National Institute of Standards and Technology.~~

~~3. The State Sealer of Weights and Measures, or the appointees thereof, or any member of the Nevada Highway Patrol, may take such samples as he or she deems necessary of any petroleum product or motor vehicle fuel that is~~

~~kept, transported or stored within the State of Nevada. It is unlawful for any person, or any officer, agent or employee thereof, to refuse to permit the State Sealer of Weights and Measures, or the appointees thereof, or any member of the Nevada Highway Patrol, in the State of Nevada, to take such samples, or to prevent or to attempt to prevent the State Sealer of Weights and Measures, or the appointees thereof, or any member of the Nevada Highway Patrol, from taking them. If the person, or any officer, agent or employee thereof, from which a sample is taken at the time of taking demands payment, then the person taking the sample shall pay the reasonable market price for the quantity taken.~~

~~4. The State Sealer of Weights and Measures, or the appointees thereof, may close and seal the outlets of any unlabeled or mislabeled containers, pumps, dispensers or storage tanks connected thereto or which contain any petroleum product or motor vehicle fuel which, if sold, would violate any of the provisions of NRS 590.010 to 590.150, inclusive, and shall post, in a conspicuous place on the premises where those containers, pumps, dispensers or storage tanks have been sealed, a notice stating that the action of sealing has been taken in accordance with the provisions of NRS 590.010 to 590.150, inclusive, and giving warning that it is unlawful to break, mutilate or destroy the seal or seals thereof under penalty as provided in NRS 590.110.~~

~~5. The State Sealer of Weights and Measures, or the appointees thereof, shall, upon at least 24 hours' notice to the owner, manager, operator or attendant of the premises where a container, pump, dispenser or storage tank has been sealed, and at the time specified in the notice, break the seal for the purpose of permitting the removal of the contents of the container, pump, dispenser or storage tank. If the contents are not immediately and completely removed, the container, pump, dispenser or storage tank must be again sealed.~~

~~6. The State Sealer of Weights and Measures shall adopt regulations which are necessary for the enforcement of NRS 590.010 to 590.150, inclusive, including standard procedures for testing petroleum products or motor vehicle fuel which are based on sources such as those approved by ASTM International, and may adopt specifications for any fuel for use in internal combustion engines which is sold or offered for sale and contains any alcohol or other combustible chemical that is not a petroleum product or motor vehicle fuel.~~**]** **(Deleted by amendment.)**

Sec. 3. The amendatory provisions of sections 1 and 2 of this act that concern property occupied by the Department of Motor Vehicles apply only with respect to such property for which:

1. The Department entered into a lease on or after the effective date of those sections; or

2. The Department entered into a lease before the effective date of those sections that did not prohibit the Department from receiving payment for advertising upon such property.

Sec. 3.3. ~~[Any regulations adopted by the State Board of Agriculture pursuant to NRS 590.070 or 590.071 remain in effect and may be enforced by the Department of Motor Vehicles until the Department adopts regulations to repeal or replace those regulations.]~~ **(Deleted by amendment.)**

Sec. 3.5. The Department of Motor Vehicles shall:

1. On or before February 1, 2012, submit a report to the Interim Finance Committee summarizing any agreement entered into pursuant to section 1 of this act. The report must include, without limitation, the terms of the agreement, a list of buildings owned or occupied by the Department in which advertising is placed and a description of the types of advertising placed pursuant to the agreement.

2. On or before August 1, 2012, submit an update to the report required by subsection 1 and a report which must include, without limitation, information concerning the manner in which any money collected by the Department pursuant to any agreement entered into pursuant to section 1 of this act has been expended during the 2011-2013 biennium and the manner in which the Department plans to use such money during the 2013-2015 biennium.

Sec. 4. 1. This section and sections 1 and 2 to 3.5, inclusive, of this act become effective upon passage and approval.

2. Section 1.5 of this act becomes effective on July 1, 2011.

Assemblyman Goicoechea moved the adoption of the amendment.

Remarks by Assemblyman Goicoechea.

Amendment adopted.

Bill ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 469 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 581.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 581:

YEAS—42.

NAYS—None.

Assembly Bill No. 581 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 11.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Senate Bill No. 11:
YEAS—40.
NAYS—Goedhart, Livermore—2.
Senate Bill No. 11 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 425.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Senate Bill No. 425:
YEAS—42.
NAYS—None.
Senate Bill No. 425 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 428.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Senate Bill No. 428:
YEAS—42.
NAYS—None.
Senate Bill No. 428 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 473.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Senate Bill No. 473:
YEAS—42.
NAYS—None.
Senate Bill No. 473 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 485.
Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 485:

YEAS—42.

NAYS—None.

Senate Bill No. 485 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 486.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 486:

YEAS—42.

NAYS—None.

Senate Bill No. 486 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 527.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 527:

YEAS—42.

NAYS—None.

Assembly Bill No. 527 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Assembly Bill No. 550.

Bill read third time.

Roll call on Assembly Bill No. 550:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.

Assembly Bill No. 550 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Assembly Bill No. 553.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 553:

YEAS—38.

NAYS—Goedhart, Hambrick, Livermore, McArthur—4.

Assembly Bill No. 553 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Senate Bill No. 314.

Bill read third time.

Roll call on Senate Bill No. 314:

YEAS—42.

NAYS—None.

Senate Bill No. 314 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Senate Bill No. 483.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 483:

YEAS—42.

NAYS—None.

Senate Bill No. 483 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 39, 53, 81, 277, 362; Senate Bills Nos. 43, 54, 57, 60, 94, 106, 113, 126, 129, 133, 154, 186, 187, 194, 207, 208, 222, 278, 293, 338, 374, 405, 423, 429, 442, 443, 446, 447, 449, 452, 471, 475, 476, 477, 480, 498, 499, 503, 504, 505; Senate Concurrent Resolution No. 5.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Conklin, Atkinson, and Kirner as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 524.

Mr. Speaker appointed Assemblymen Carlton, Hogan, and Grady as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 525.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 228.

The following Senate amendment was read:

Amendment No. 890.

SUMMARY—Directs the ~~[Legislative]~~ Commission **to Study Governmental Purchasing** to conduct ~~[an interim]~~ **a** study on contracts for public works. (BDR S-582)

AN ACT relating to public works; directing the ~~[Legislative]~~ Commission to **Study Governmental Purchasing to** conduct ~~[an interim]~~ **a** study of the feasibility of standard form contracts for public works at the state and local levels; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a public body is required to include certain provisions in a contract for a public work. (NRS 338.150, 338.153, 338.155) This bill directs the ~~[Legislative]~~ Commission **to Study Governmental Purchasing** to conduct ~~[an interim]~~ **a** study of the feasibility of the use of a standard form construction contract for each contract for a state or local public work.

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

Section 1. (Deleted by amendment.)

Sec. 2. 1. The ~~[Legislative]~~ Commission **to Study Governmental Purchasing created pursuant to NRS 332.215** shall ~~[appoint a committee to]~~ conduct ~~[an interim]~~ **a** study concerning the feasibility of using standard form construction contracts for public works by state and local governments.

2. ~~[The committee appointed by the Legislative Commission pursuant to subsection 1 must be composed of six Legislators as follows:~~

~~(a) Three members appointed by the Majority Leader of the Senate, at least one of whom must be appointed from the membership of the Senate Standing Committee on Government Affairs during the immediately preceding session of the Legislature; and~~

~~(b) Three members appointed by the Speaker of the Assembly, at least one of whom must be appointed from the membership of the Assembly Standing Committee on Government Affairs during the immediately preceding session of the Legislature.~~

~~3.]~~ The study must include, without limitation:

(a) A review of:

(1) The laws of this State governing public works; and

(2) The use of standardized contracts in other states and localities;

(b) Construction contract clauses recommended for inclusion; and

(c) Any other matters which the ~~[Legislative]~~ Commission deems relevant to the consideration of the issues.

~~[4.]~~ **3.** In conducting the study, the ~~[committee]~~ **Commission** shall consider the recommendations and testimony from experts in construction and public works contracts, including, without limitation:

(a) National associations primarily representing the interests of public owners or private contractors;

(b) ~~[The Commission to Study Governmental Purchasing created by NRS 332.215;~~

~~(c)]~~ Representatives of management and labor organizations;

~~[(d)]~~ **(c)** The State Public Works Board; and

~~[(e)]~~ **(d)** Local government public works officials.

~~[5. The Legislative]~~

4. On or before January 15, 2013, the Commission shall submit a report of the results of the study and any recommendations for legislation to the **Director of the Legislative Counsel Bureau for transmittal to the** 77th Session of the Nevada Legislature.

Sec. 2.5. **The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.**

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

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 890 to Assembly Bill No. 228.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 222.

The following Senate amendment was read:

Amendment No. 926.

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

Legislative Counsel's Digest:

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

Existing law requires the automated system of accountability information for Nevada to track the achievement of pupils over time and to identify which teachers ~~[and paraprofessionals]~~ are assigned to individual pupils. The

information is required to be considered, but must not be the sole criterion, in evaluating the performance of or taking disciplinary action against an individual teacher ~~[, paraprofessional]~~ or other employee. (NRS 386.650) Existing law also requires the board of trustees of each school district to develop a policy for the evaluation of teachers and administrators pursuant to which the performance of an individual teacher or administrator is designated as "satisfactory" or "unsatisfactory." (NRS 391.3125, 391.3127) **Section 7** of this bill requires the State Board of Education, based upon the recommendations of the Council, to establish a statewide performance evaluation system for teachers and administrators employed by school districts. Effective July 1, 2013, the statewide performance evaluation system will require the evaluation of an individual teacher or administrator as "highly effective," "effective," "minimally effective" or "ineffective." ~~[Also effective July 1, 2013, section 2 of this bill]~~ **Assembly Bill No. 229 of this session, which was enacted by the Legislature on June 2, 2011,** requires that certain information on pupil achievement which is maintained by the automated system of accountability information for Nevada account for **at least** 50 percent of the evaluations of teachers and administrators. **Sections 2 and 7 of this bill make conforming changes on the use of pupil achievement data in the evaluation of teachers and administrators as the requirements on the use of that data contained in Assembly Bill No. 229. Sections 8.5 and 9.5** of this bill require the policies for the evaluations of teachers and administrators employed by school districts to comply with the statewide performance evaluation system established by the State Board.

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

Assembly Bill No. 229 of this session, provides that if the written evaluation of a probationary teacher or probationary administrator states that the overall performance of the teacher or administrator has been designated as "unsatisfactory," the evaluation must include a written statement which states that if the teacher or administrator has received two evaluations for the school year which designate his or her performance as "unsatisfactory" and the teacher or administrator has another evaluation remaining in the school year, the teacher or administrator may request that the remaining evaluation be conducted by another administrator. Section 10.3 of this bill amends Assembly Bill No. 229 to provide that the probationary teacher or probationary administrator may make such a request if the teacher or administrator

receives an "unsatisfactory" evaluation on the first or second evaluation, or both evaluations. Effective on July 1, 2013, section 10.4 of this bill amends Assembly Bill No. 229 to provide that the probationary teacher or probationary administrator may make such a request for an outside evaluator if he or she receives an evaluation of "minimally effective" or "ineffective" on the first or second evaluation, or both evaluations.

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

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

Section 1. (Deleted by amendment.)

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

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

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

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

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

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

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

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

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

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

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

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to

NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

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

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

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

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

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

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

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

3. The Superintendent of Public Instruction shall:

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

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

(c) Prescribe the format for the data;

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

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

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

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

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

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

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

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Members of the Council serve without compensation, except that for each day or portion of a day during which a member of the Council attends

a meeting of the Council or is otherwise engaged in the business of the Council, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

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

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

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

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

(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers and administrators employed by school districts are:

(1) Evaluated using multiple, fair, timely, rigorous and valid methods, which includes evaluations based upon pupil achievement data as required by NRS 386.650 and section 7 of this act;

(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and

(3) Provided with the means to share effective educational methods with other teachers and administrators throughout this State.

(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.

(c) Consider the role of professional standards for teachers and administrators and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.

2. The performance evaluation system recommended by the Council must ensure that:

(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers and administrators; and

(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity.

3. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.

4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a

statewide performance evaluation system as required by section 7 of this act.

Sec. 7. ***1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to section 6 of this act, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance.***

2. The statewide performance evaluation system must:

(a) Require that an employee's overall performance is determined to be:

(1) Highly effective;

(2) Effective;

(3) Minimally effective; or

(4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a).

(c) Require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for at least 50 percent of the evaluation.

(d) Include an evaluation of whether the teacher or administrator employs practices and strategies to involve and engage the parents and families of pupils.

Sec. 8. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. ***The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.*** The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded not later than:

(a) December 1;

(b) February 1; and

(c) April 1,

➥ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, the administrator shall bring the matter to the employee's attention in a written document which is separate from the evaluation not later than March 1 of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.

5. Each postprobationary teacher must be evaluated at least once each year. An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes.

6. The evaluation of a probationary teacher or a postprobationary teacher must include, without limitation:

(a) An evaluation of the classroom management skills of the teacher;

(b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;

(c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;

(d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;

(e) If necessary, recommendations for improvements in the performance of the teacher;

(f) A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and

(g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.

Sec. 8.5. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must ~~[set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.]~~ ***comply with the statewide performance evaluation system established by the State Board pursuant to section 7 of this act.*** The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded not later than:

(a) December 1;

(b) February 1; and

(c) April 1,

➥ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during

each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, the administrator shall bring the matter to the employee's attention in a written document which is separate from the evaluation not later than March 1 of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.

5. Each postprobationary teacher must be evaluated at least once each year. An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes.

6. The evaluation of a probationary teacher or a postprobationary teacher must include, without limitation:

(a) An evaluation of the classroom management skills of the teacher;

(b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;

(c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;

(d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;

(e) ***An evaluation of whether the teacher employs practices and strategies to involve and engage the parents and families of pupils in the classroom;***

(f) If necessary, recommendations for improvements in the performance of the teacher;

~~[(f)]~~ ***(g)*** A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and

~~[(g)]~~ ***(h)*** A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.

Sec. 9. NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must set forth a means according to which an administrator's overall performance may be determined to be satisfactory or unsatisfactory. ***The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.*** The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board must be filed with the Department and made available to the Commission.

2. Each administrator must be evaluated in writing at least once a year.

3. Before a superintendent transfers or assigns an administrator to another administrative position as part of an administrative reorganization, if the transfer or reassignment is to a position of lower rank, responsibility or pay, the superintendent shall give written notice of the proposed transfer or assignment to the administrator at least 30 days before the date on which it is to be effective. The administrator may appeal the decision of the superintendent to the board by requesting a hearing in writing to the president of the board within 5 days after receiving the notice from the superintendent. The board shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board is final.

Sec. 9.5. NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must ~~[set forth a means according to which an administrator's overall performance may be determined to be satisfactory or unsatisfactory. The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.]~~ ***comply with the statewide***

performance evaluation system established by the State Board pursuant to section 7 of this act. The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board must be filed with the Department and made available to the Commission.

2. Each administrator must be evaluated in writing at least once a year.

3. Before a superintendent transfers or assigns an administrator to another administrative position as part of an administrative reorganization, if the transfer or reassignment is to a position of lower rank, responsibility or pay, the superintendent shall give written notice of the proposed transfer or assignment to the administrator at least 30 days before the date on which it is to be effective. The administrator may appeal the decision of the superintendent to the board by requesting a hearing in writing to the president of the board within 5 days after receiving the notice from the superintendent. The board shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board is final.

Sec. 10. NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for two 1-year periods and has no right to employment after either of the two probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first and second school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. The employee must advise the board in writing on or before May 10 of the first or second year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in both the first and second years of the employee's probationary period, no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. The employee must advise the board in writing within 10 days after the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment constitutes rejection of the contract.

3. A probationary employee who completes a 2-year probationary period and receives a notice of reemployment from the school district in the second year of the employee's probationary period is entitled to be a postprobationary employee in the ensuing year of employment.

4. If a probationary employee receives notice pursuant to subsection 4 of NRS 391.3125 not later than March 1 of a potential decision not to reemploy him or her, the employee may request a supplemental evaluation by another administrator in the school district selected by the employee and the superintendent. If a school district has five or fewer administrators, the supplemental evaluator may be an administrator from another school district in this State. If a probationary employee has received during the first school year of the employee's probationary period three evaluations which state that the employee's overall performance has been ~~[satisfactory,]~~ ***highly effective or effective,*** the superintendent of schools of the school district or the superintendent's designee shall waive the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of the employee's probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.

5. If a probationary employee is notified that the employee will not be reemployed for the second year of the employee's probationary period or the ensuing school year, his or her employment ends on the last day of the current school year. The notice that the employee will not be reemployed must include a statement of the reasons for that decision.

6. A new employee or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 2-year probationary period as an administrator in accordance with the provisions of this section. If the administrator does not receive an ~~[unsatisfactory]~~ evaluation ***indicating that his or her performance is minimally effective or ineffective*** during the first year of probation, the superintendent or the superintendent's designee shall waive the second year of the administrator's probationary period. Such an administrator is entitled to be a postprobationary employee in the ensuing year of employment. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after either year of his or her probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

➥ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

7. An administrator who has completed his or her probationary period pursuant to subsection 6 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the

position of principal. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the additional probationary period, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

8. Before dismissal, the probationary employee is entitled to a hearing before a hearing officer which affords due process as set out in NRS 391.311 to 391.3196, inclusive.

Sec. 10.3. **Section 9 of Assembly Bill No. 229 of this session is hereby amended to read as follows:**

Sec. 9. ***1. If a written evaluation of a probationary teacher or probationary administrator designates the overall performance of the teacher or administrator as "unsatisfactory":***

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive ~~*[two evaluations for this school year which designate your performance as]*~~ ***an 'unsatisfactory*** ~~*[,']*~~ ***' evaluation on the first or second evaluation, or both evaluations for this school year, and if you have another evaluation remaining this school year, you may request that the evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in correcting the deficiencies reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in correcting those deficiencies."***

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator requests assistance in correcting deficiencies reported in his or her evaluation, the

administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in correcting those deficiencies.

Sec. 10.4. **Section 20 of Assembly Bill No. 229 of this session is hereby amended to read as follows:**

Sec. 20. Section 9 of this act is hereby amended to read as follows:

Sec. 9. 1. If a written evaluation of a probationary teacher or probationary administrator designates the overall performance of the teacher or administrator as ~~[~~"unsatisfactory".~~]~~ ***"minimally effective" or "ineffective":***

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive ~~[an]~~ ~~['unsatisfactory']~~ ***a 'minimally effective' or 'ineffective'*** evaluation on the first or second evaluation, or both evaluations for this school year, and if you have another evaluation remaining this school year, you may request that the evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in correcting the deficiencies reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in correcting those deficiencies."

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator requests assistance in correcting deficiencies reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in correcting those deficiencies.

Sec. 10.5. 1. There are hereby appropriated from the State General Fund to the Department of Education the following sums for the costs associated with the Teachers and Leaders Council of Nevada created by section 5 of this act:

For the Fiscal Year 2011-2012 ..... $24,000

For the Fiscal Year 2012-2013 ..... $8,000

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the Department of Education or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2012, and September 20, 2013, respectively, by either the Department of Education or the entity to which the money from the appropriation was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2012, and September 20, 2013, respectively.

Sec. 11. The Teachers and Leaders Council of Nevada created by section 5 of this act shall, not later than June 1, 2012, submit to the State Board of Education the recommendations of the Council for the adoption of regulations establishing a statewide performance evaluation system for teachers and administrators pursuant to section 7 of this act.

Sec. 12. On or before June 1, 2013, the State Board of Education shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to section 6 of this act, adopt regulations establishing a statewide performance evaluation system for teachers and administrators that complies with section 7 of this act.

Sec. 13. Each school district in this State shall, not later than the 2013-2014 school year, implement a performance evaluation policy for teachers and administrators that complies with the statewide performance evaluation system established by the State Board of Education pursuant to section 7 of this act.

Sec. 14. The appointed members of the Teachers and Leaders Council of Nevada created by section 5 of this act must be appointed to initial terms as follows:

1. The Governor shall appoint to the Council the members described in:

(a) Paragraph (c) of subsection 1 of section 5 of this act to initial terms of 2 years.

(b) Paragraphs (d) and (e) of subsection 1 of section 5 of this act to initial terms of 3 years.

(c) Paragraphs (f) and (g) of subsection 1 of section 5 of this act to initial terms of 1 year.

2. The Superintendent of Public Instruction shall appoint to the Council the members described in paragraph (h) of subsection 1 of section 5 of this act to initial terms of 3 years.

Sec. 15. 1. This section and sections 3 to 8, inclusive, 9, **10.3,** 10.5 and 11 to 14, inclusive, of this act become effective on July 1, 2011.

2. Sections 1, 2, 8.5, 9.5 **,** ~~**[and]**~~ 10 **and 10.4** of this act become effective on July 1, 2013.

Assemblyman Bobzien moved that the Assembly concur in the Senate Amendment No. 926 to Assembly Bill No. 222.

Remarks by Assemblyman Bobzien.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 74.

The following Senate amendment was read:

Amendment No. 903.

AN ACT relating to insurance; requiring the Commissioner of Insurance to adopt regulations relating to electronic signatures, records and payments; revising provisions relating to the external review of adverse determinations of health carriers; clarifying the circumstances under which an actuary is not liable for damages with respect to the actuary's opinion; authorizing the electronic transmission of fingerprints with an application for a license; revising provisions relating to the licensing of adjusters; revising provisions relating to surplus lines insurance; revising provisions relating to the use of credit information; requiring that certain policies of group insurance be filed with and approved by the Commissioner; revising provisions relating to annuities, pure endowment contracts and policies of life insurance; revising provisions relating to evidence of insurance for motor vehicles; revising provisions relating to disciplinary action by the Commissioner; revising and clarifying provisions relating to employee leasing companies; **providing for coverage by the Nevada Life and Health Insurance Guarantee Association for certain unallocated annuity contracts owned by certain governmental retirement plans;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides a set of procedures for the external review of an adverse determination by a managed care organization. (NRS 695G.241-695G.310) **Sections 2, 3, 8, 9, 79-118.8, 123-127 and 129-131** of this bill amend the external review process to comply with the federal Patient Protection and Affordable Care Act (Public Law 111–148) and enact other related provisions necessary to comply with the minimum standards prescribed by federal law.

Existing law limits the liability of a qualified actuary for damages relating to the actuary's opinion regarding an insurer who offers life insurance. (NRS 681B.250) **Section 6** of this bill clarifies that this limitation of liability applies not only for life insurance but for any opinion an actuary issues pursuant to chapter 681B of NRS or any regulations adopted thereto.

Existing law requires the Commissioner of Insurance to adopt regulations governing the use of certain electronic methods relating to insurance. (NRS 679B.136, 685A.210) **Sections 1 and 29** of this bill expand the electronic methods that the Commissioner can allow the use of for insurance transactions. Additionally, **sections 10, 11, 20, 44-47 and 122** of this bill allow for the fingerprints required to be submitted with an application for a license pursuant to the Nevada Insurance Code to be submitted electronically.

Existing law requires an applicant for a license as an insurance adjuster to be a resident of this State with certain exceptions. (NRS 684A.070) On December 9, 2009, the United States District Court for the District of Nevada held that the residency requirement to obtain a license as an insurance adjuster violates the Privileges and Immunities Clause of the United States Constitution. (*Reitz v. Kipper*, 674 F.Supp.2d 1194 (D. Nev. 2009)) **Sections 15-26** of this bill revise provisions relating to the licensing of insurance adjusters to remove the residency requirement. **Sections 15-26** also require that an applicant either pass an examination in this State before receiving a license as an insurance adjuster or, if not a resident of this State, be currently licensed in a state that requires an examination before licensure.

Existing law governs trade practices and frauds relating to the insurance business and gives the Commissioner exclusive jurisdiction to regulate trade practices in the insurance business. (Chapter 686A of NRS) **Section 30** of this bill requires an insurer that uses credit information to provide reasonable exceptions to their rates in certain circumstances.

Under existing law, an insurer may not market certain insurance products without first filing the product with the Commissioner and receiving the Commissioner's approval. (NRS 687B.120) **Section 35** of this bill also requires any group insurance policies to be issued pursuant to NRS 688B.030 or 689B.026 to be filed with and approved by the Commissioner before being marketed.

Under existing law, an employee leasing company is deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans. (NRS 616B.691) In 2007, this section was amended to clarify that such a company is also deemed to be the employer for the purposes of the Employee Retirement Income Security Act of 1974 (ERISA). (Chapter 536, Statutes of Nevada 2007, p. 3339) On August 6, 2010, the United States District Court for the District of Nevada held that NRS 616B.691 was preempted by federal law to the extent that it declares the status of any benefit plans for purposes of ERISA. (*Payroll Solutions Group, Ltd. v. Nevada*, No. 02-CV-06-00927-JCM-RJJ (D. Nev. Aug. 6, 2010)) **Section 128** of this bill reverses the changes made to NRS 616B.691 during the 2007 Legislative Session. In addition, **section 128** clarifies that the

provisions of subsection 1 of that section apply only for the purposes of chapters 612 and 616A-617 of NRS. **Section 128** also clarifies that the provisions of subsection 2 of that section do not affect the existing employer-employee relationship between a leased employee and a client company.

Sections 33.1, 33.3 and 33.7 of this bill require the Nevada Life and Health Insurance Guarantee Association to provide coverage for certain unallocated annuity contracts owned by a governmental retirement plan under certain circumstances. Section 33.7 provides that such coverage must not exceed $100,000 in the aggregate for each participant, regardless of the number of contracts.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 679B.136 is hereby amended to read as follows:

679B.136 1. The Commissioner shall adopt regulations governing:

(a) The use of electronic signatures, and the acceptance and transmission of electronic records ~~[, in]~~ ***and payments, including transactions involving claims and other*** transactions relating to insurance; and

(b) The electronic filing of forms and payment of fees, and the storage and reproduction of records, filed with the Division.

2. As used in this section:

(a) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(b) "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.

(c) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(d) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(e) "Transaction" means an action or set of actions occurring between two or more persons relating to the transaction of business, commercial or governmental affairs.

Sec. 2. NRS 679B.240 is hereby amended to read as follows:

679B.240 To ascertain compliance with law, or relationships and transactions between any person and any insurer or proposed insurer, the Commissioner may, as often as he or she deems advisable, examine the accounts, records, documents and transactions relating to such compliance or relationships of:

1. Any insurance agent, solicitor, broker, surplus lines broker, general agent, adjuster, insurer representative, bail agent, motor club agent or any

other licensee or any other person the Commissioner has reason to believe may be acting as or holding himself or herself out as any of the foregoing.

2. Any person having a contract under which the person enjoys in fact the exclusive or dominant right to manage or control an insurer.

3. Any insurance holding company or other person holding the shares of voting stock or the proxies of policyholders of a domestic insurer, to control the management thereof, as voting trustee or otherwise.

4. Any subsidiary of the insurer.

5. Any person engaged in this state in, or proposing to be engaged in this state in, or holding himself or herself out in this state as so engaging or proposing, or in this state assisting in, the promotion, formation or financing of an insurer or insurance holding corporation, or corporation or other group to finance an insurer or the production of its business.

6. Any ~~[external]~~ ***independent*** review organization, as defined in NRS 695G.018.

Sec. 3. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) If an annual fee, paid on or before March 1 of every year;

(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

(d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

(1) Initial fee…… $1,300

(2) Annual fee……..……$1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

(1) Initial fee…… $1,300

(2) Annual fee……. $1,300

(c) ~~[External]~~ ***Independent*** review organizations, as provided for in NRS 616A.469 or ~~[683A.371,]~~ ***section 8 of this act,*** or both:

(1) Initial fee……..$60

(2) Annual fee……$60

(d) Insurers not otherwise provided for in this subsection:

(1) Initial fee……..$1,300

(2) Annual fee……$1,300

(e) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee……..$60

(2) Triennial fee…….. $60

(f) Accredited reinsurers, as provided for in NRS 681A.160:

(1) Initial fee…… $1,300

(2) Annual fee……. $1,300

(g) Intermediaries, as defined in NRS 681A.330:

(1) Initial fee……. $60

(2) Triennial fee…….. $60

(h) Reinsurers, as defined in NRS 681A.370:

(1) Initial fee…… $1,300

(2) Annual fee……. $1,300

(i) Administrators, as defined in NRS 683A.025:

(1) Initial fee……..$60

(2) Triennial fee…….. $60

(j) Managing general agents, as defined in NRS 683A.060:

(1) Initial fee…… $60

(2) Triennial fee…….$60

(k) Agents who perform utilization reviews, as defined in NRS 683A.376:

(1) Initial fee…… $60

(2) Annual fee……. $60

(l) Insurance consultants, as defined in NRS 683C.010:

(1) Initial fee…… $60

(2) Triennial fee…….$60

(m) Independent adjusters, as defined in NRS 684A.030:

(1) Initial fee…… $60

(2) Triennial fee…….. $60

(n) Public adjusters, as defined in NRS 684A.030:

(1) Initial fee…… $60

(2) Triennial fee…….. $60

(o) Associate adjusters, as defined in NRS 684A.030:

(1) Initial fee…… $60

(2) Triennial fee…….. $60

(p) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:

(1) Initial fee…… $60

(2) Triennial fee…….. $60

(q) Brokers, as defined in NRS 685A.030:

(1) Initial fee…… $60
(2) Triennial fee…….. $60
(r) Eligible surplus line insurers, as provided for in NRS 685A.070:
(1) Initial fee…… $1,300
(2) Annual fee……. $1,300
(s) Companies, as defined in NRS 686A.330:
(1) Initial fee……..$1,300
(2) Annual fee……. $1,300
(t) Rate service organizations, as defined in NRS 686B.020:
(1) Initial fee…… $1,300
(2) Annual fee……. $1,300
(u) Brokers of viatical settlements, as defined in NRS 688C.030:
(1) Initial fee……..$60
(2) Annual fee……. $60
(v) Providers of viatical settlements, as defined in NRS 688C.080:
(1) Initial fee…… $60
(2) Annual fee……. $60
(w) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee……. $60
(2) Triennial fee…….. $60
(x) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee…… $60
(2) Triennial fee…….. $60
(y) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee…… $60
(2) Triennial fee…….. $60
(z) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee…… $60
(2) Triennial fee…….. $60
(aa) Providers, as defined in NRS 690C.070:
(1) Initial fee…… $1,300
(2) Annual fee……. $1,300
(bb) Escrow officers, as defined in NRS 692A.028:
(1) Initial fee……..$60
(2) Triennial fee…….$60
(cc) Title agents, as defined in NRS 692A.060:
(1) Initial fee…… $60
(2) Triennial fee…….$60

(dd) Captive insurers, as defined in NRS 694C.060:
(1) Initial fee…… $250
(2) Annual fee……. $250
(ee) Fraternal benefit societies, as defined in NRS 695A.010:
(1) Initial fee…… $1,300
(2) Annual fee……. $1,300
(ff) Insurance agents for societies, as provided for in NRS 695A.330:
(1) Initial fee……..$60
(2) Triennial fee…….. $60
(gg) Corporations subject to the provisions of chapter 695B of NRS:
(1) Initial fee…… $1,300
(2) Annual fee……. $1,300
(hh) Health maintenance organizations, as defined in NRS 695C.030:
(1) Initial fee…… $1,300
(2) Annual fee……. $1,300
(ii) Organizations for dental care, as defined in NRS 695D.060:
(1) Initial fee…… $1,300
(2) Annual fee……$1,300
(jj) Purchasing groups, as defined in NRS 695E.100:
(1) Initial fee…… $250
(2) Annual fee……. $250
(kk) Risk retention groups, as defined in NRS 695E.110:
(1) Initial fee…… $250
(2) Annual fee……. $250
(ll) Prepaid limited health service organizations, as defined in NRS 695F.050:
(1) Initial fee……. $1,300
(2) Annual fee……. $1,300
(mm) Medical discount plans, as defined in NRS 695H.050:
(1) Initial fee…… $1,300
(2) Annual fee……$1,300
(nn) Club agents, as defined in NRS 696A.040:
(1) Initial fee……..$60
(2) Triennial fee…….$60
(oo) Motor clubs, as defined in NRS 696A.050:
(1) Initial fee…… $1,300
(2) Annual fee……. $1,300
(pp) Bail agents, as defined in NRS 697.040:
(1) Initial fee……..$60
(2) Triennial fee…….. $60
(qq) Bail enforcement agents, as defined in NRS 697.055:
(1)Initial fee……. $60

(2) Triennial fee……$60

(rr) Bail solicitors, as defined in NRS 697.060:

(1) Initial fee……..$60

(2) Triennial fee…… $60

(ss) General agents, as defined in NRS 697.070:

(1) Initial fee…… $60

(2) Triennial fee……$60

Sec. 3.5. NRS 681A.022 is hereby amended to read as follows:

681A.022 "Continuous care coverage" is the issuance of a policy of insurance for workers' compensation, as described in paragraph (c) of subsection 1 of NRS 681A.020, issued jointly with and supplemental to a policy for health insurance, as defined in NRS 681A.030, by one or more insurers covering the same ~~[individual]~~ ***employer*** for the same policy period.

Sec. 4. NRS 681A.040 is hereby amended to read as follows:

681A.040 ***1.*** **"**Life insurance" is insurance on human lives. The transaction of life insurance includes the granting of endowment benefits, additional incidental benefits in the event of death or dismemberment by accident or accidental means, additional incidental benefits in the event of the insured's disability, optional modes of settlement of proceeds of life insurance, and provisions operating to safeguard contracts of life insurance against lapse.

2. The term includes a policy of life insurance which incorporates long-term care insurance if the policy of life insurance may incorporate the long-term care insurance pursuant to section 36 of this act.

Sec. 5. NRS 681B.200 is hereby amended to read as follows:

681B.200 As used in NRS 681B.200 to 681B.260, inclusive, "qualified actuary" means ~~[a member in good standing of the American Academy of Actuaries, or a successor organization approved by the Commissioner who meets the requirements set forth in the organization's regulations.]~~ ***a person who is qualified to sign the applicable statement of actuarial opinion in accordance with the qualification standards set by the American Academy of Actuaries for an actuary signing such a statement.***

Sec. 5.5. NRS 681B.210 is hereby amended to read as follows:

681B.210 Every insurer ~~[offering life insurance]~~ doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The Commissioner by regulation may further define or enlarge the scope of this opinion.

Sec. 6. NRS 681B.250 is hereby amended to read as follows:

681B.250 1. Except in a case of fraud or willful misconduct, a qualified actuary ***who is appointed by an insurer to issue an opinion pursuant to this chapter or any regulation adopted pursuant thereto*** is not liable for damages to any person other than an affected insurer or the Commissioner for any act, error, omission, decision or conduct with respect to the actuary's opinion.

2. Disciplinary action by the Commissioner against an actuary must be prescribed by regulation by the Commissioner.

Sec. 7. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. ***1. An independent review organization must be approved by the Commissioner to be eligible to be assigned to conduct external reviews.***

2. In order to be eligible for approval or reapproval by the Commissioner to conduct external reviews, an independent review organization:

(a) Except as otherwise provided in this section, must be accredited by a nationally recognized private accrediting entity which the Commissioner has determined has standards for the accreditation of independent review organizations that are equivalent to or exceed the minimum qualifications for independent review organizations established under section 9 of this act; and

(b) Must submit an application in accordance with subsection 4.

3. The Commissioner shall develop an application form for the initial approval and reapproval of an independent review organization to conduct external reviews.

4. An independent review organization wishing to be approved or reapproved to conduct external reviews must submit the application form and include with the form all documentation and information necessary for the Commissioner to determine if the independent review organization satisfies the minimum qualifications established under section 9 of this act.

5. The Commissioner may approve an independent review organization that is not accredited by a nationally recognized private accrediting entity if there are no acceptable nationally recognized private accrediting entities providing accreditation of independent review organizations.

6. The Commissioner may charge any applicable fee which an independent review organization must submit to the Commissioner with its application for initial approval or reapproval.

7. An approval or reapproval is effective for 2 years unless the Commissioner determines before its expiration that the independent review organization does not satisfy the minimum qualifications established under section 9 of this act.

8. Whenever the Commissioner determines that an independent review organization has lost its accreditation or no longer satisfies the minimum requirements established under section 9 of this act, the Commissioner shall terminate the approval of the independent review organization and remove the independent review organization from the list of independent review organizations approved to conduct external reviews that is maintained by the Commissioner pursuant to subsection 9.

9. The Commissioner shall maintain and periodically update a list of approved independent review organizations.

10. The Commissioner may adopt regulations to carry out the provisions of this section.

11. As used in this section, "independent review organization" has the meaning ascribed to it in NRS 695G.018.

Sec. 9. *1. To be approved under section 8 of this act to conduct external reviews, an independent review organization shall have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process which include, without limitation:*

(a) A quality assurance mechanism which ensures:

(1) That an external review is conducted within the specified time frames and required notices are provided in a timely manner;

(2) The selection of qualified and impartial clinical reviewers to conduct external reviews on behalf of the independent review organization, suitable matching of reviewers to specific cases and that the independent review organization employs or contracts with an adequate number of clinical reviewers to meet this requirement;

(3) The confidentiality of medical and treatment records and clinical review criteria; and

(4) That a person employed by or under contract with the independent review organization adheres to the requirements of the external review process;

(b) A toll-free telephone service that is capable of accepting, recording or providing appropriate instruction relating to external reviews to incoming telephone callers 24 hours a day, 7 days a week; and

(c) An agreement to maintain and provide to the Office for Consumer Health Assistance the information required pursuant to section 110 of this act.

2. A clinical reviewer assigned by an independent review organization to conduct an external review must be a physician or other appropriate health care provider who must:

(a) Be an expert in the treatment of the covered person's medical condition that is the subject of the external review;

(b) Be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical condition as the covered person;

(c) Hold a nonrestricted license in a state or territory of the United States and, if a physician, hold a current certification by a specialty board of the American Board of Medical Specialties in the area or areas appropriate to the subject of the external review; and

(d) Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical reviewer's physical, mental or professional competence or moral character.

3. In addition to the requirements set forth in subsection 1, an independent review organization may not own or control, be a subsidiary of or in any way be owned or controlled by, or exercise control with a health benefit plan, a national, state or local trade association of health benefit plans, or a national, state or local trade association of health care providers.

4. In addition to the requirements set forth in subsections 1, 2 and 3, to be approved pursuant to section 8 of this act to conduct an external review of a specific case, neither the independent review organization selected to conduct the external review nor a clinical reviewer assigned by the independent review organization to conduct the external review may have a material professional, familial or financial conflict of interest with any of the following:

(a) The health carrier that is the subject of the external review;

(b) The covered person whose treatment is the subject of the external review or the covered person's authorized representative;

(c) Any officer, director or management employee of the health carrier that is the subject of the external review;

(d) The health care provider, the health care provider's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review;

(e) The facility at which the recommended health care service or treatment would be provided; or

(f) The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review.

5. In determining whether an independent review organization or a clinical reviewer of the independent review organization has a material professional, familial or financial conflict of interest for purposes of subsection 4, the Office for Consumer Health Assistance shall take into

consideration situations where the independent review organization to be assigned to conduct an external review of a specific case or a clinical reviewer to be assigned by the independent review organization to conduct an external review of a specific case may have an apparent professional, familial or financial relationship or connection with a person described in subsection 4, but that the characteristics of that relationship or connection are such that they are not a material professional, familial or financial conflict of interest that results in the disapproval of the independent review organization or the clinical reviewer from conducting the external review.

6. The Commissioner shall initially review and periodically review the standards of a nationally recognized private accrediting entity for accreditation of independent review organizations to determine whether the entity's standards are equivalent to or exceed the minimum qualifications established in this section. The Commissioner may accept a review conducted by the National Association of Insurance Commissioners for the purpose of the determination under this subsection and subsection 7.

7. Upon request, a nationally recognized private accrediting entity shall make its current standards for the accreditation of independent review organizations available to the Commissioner or to the National Association of Insurance Commissioners in order for the Commissioner to determine if the entity's standards are equivalent to or exceed the minimum qualifications established in this section. The Commissioner may exclude any private accrediting entity that is not reviewed by the National Association of Insurance Commissioners.

8. An independent review organization must be unbiased. An independent review organization shall establish and maintain written procedures to ensure that it is unbiased in addition to any other procedures required under this section.

9. As used in this section, the words and terms defined in NRS 695G.012 to 695G.080, inclusive, and sections 71 to 101, inclusive, of this act, have the meanings ascribed to them in those sections.

Sec. 9.5. NRS 683A.025 is hereby amended to read as follows:

683A.025 1. Except as limited by this section, "administrator" means a person who:

(a) Directly or indirectly underwrites or collects charges or premiums from or adjusts or settles claims of residents of this State or any other state from within this State in connection with workers' compensation insurance, life or health insurance coverage or annuities, including coverage or annuities provided by an employer for his or her employees;

(b) Administers an internal service fund pursuant to NRS 287.010;

(c) Administers a trust established pursuant to NRS 287.015, under a contract with the trust;

(d) Administers a program of self-insurance for an employer;

(e) Administers a program which is funded by an employer and which provides pensions, annuities, health benefits, death benefits or other similar benefits for his or her employees; or

(f) Is an insurance company that is licensed to do business in this State or is acting as an insurer with respect to a policy lawfully issued and delivered in a state where the insurer is authorized to do business, if the insurance company performs any act described in paragraphs (a) to (e), inclusive, for or on behalf of another insurer ~~[.]~~ ***unless the insurers are affiliated and each insurer is licensed to do business in this State.***

2. "Administrator" does not include:

(a) An employee authorized to act on behalf of an administrator who holds a certificate of registration from the Commissioner.

(b) An employer acting on behalf of his or her employees or the employees of a subsidiary or affiliated concern.

(c) A labor union acting on behalf of its members.

(d) Except as otherwise provided in paragraph (f) of subsection 1, an insurance company licensed to do business in this State or acting as an insurer with respect to a policy lawfully issued and delivered in a state in which the insurer was authorized to do business.

(e) A producer of life or health insurance licensed in this State, when his or her activities are limited to the sale of insurance.

(f) A creditor acting on behalf of his or her debtors with respect to insurance covering a debt between the creditor and debtor.

(g) A trust and its trustees, agents and employees acting for it, if the trust was established under the provisions of 29 U.S.C. § 186.

(h) Except as otherwise provided in paragraph (c) of subsection 1, a trust and its trustees, agents and employees acting for it, if the trust was established pursuant to NRS 287.015.

(i) A trust which is exempt from taxation under section 501(a) of the Internal Revenue Code, 26 U.S.C. § 501(a), its trustees and employees, and a custodian, his or her agents and employees acting under a custodial account which meets the requirements of section 401(f) of the Internal Revenue Code, 26 U.S.C. § 401(f).

(j) A bank, credit union or other financial institution which is subject to supervision by federal or state banking authorities.

(k) A company which issues credit cards, and which advances for and collects premiums or charges from credit card holders who have authorized it to do so, if the company does not adjust or settle claims.

(l) An attorney at law who adjusts or settles claims in the normal course of his or her practice or employment, but who does not collect charges or

premiums in connection with life or health insurance coverage or with annuities.

3. As used in this section, "affiliated" means any insurer or other person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another insurer or other person.

Sec. 10. NRS 683A.160 is hereby amended to read as follows:

683A.160 ***1.*** Each applicant for a license as a managing general agent must submit with his or her application:

~~[1. A complete set of his or her fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~2.]~~ ***(a)*** The appointment of the applicant as a managing general agent by each insurer or underwriter department to be so represented; and

~~[3.]~~ ***(b)*** The application and license fee specified in NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

2. Each applicant must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

3. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal

Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

Sec. 11. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his or her knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded;

(b) Designated a natural person who is licensed as a producer of insurance and who is authorized to transact business on behalf of the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance; and

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must ~~[furnish a complete set of his or her fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt]~~ ***, as part of his or her application and at the applicant's own expense:***

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

~~[4.]~~ ***5.*** The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 12. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a

license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability ~~[.]~~ ***income.***

(b) ~~[~~Health~~]~~ ***Accident and health*** insurance for sickness, bodily injury or accidental death, which may include benefits for disability ~~[.]~~ ***income.***

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

~~[~~(e) Surety~~]~~ ***For the purposes of a producer of insurance, this line of insurance includes surety*** indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

~~[~~(f)~~]~~ ***(e)*** Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

~~[~~(g)~~]~~ ***(f)*** Credit insurance, including ***credit*** life, ***credit*** ~~[~~disability,~~]~~ ***accident and health, credit*** property, ***credit*** ~~[~~unemployment,~~]~~ involuntary unemployment, ~~[~~mortgage life, mortgage guaranty, mortgage disability,~~]~~ guaranteed ***asset*** protection ***,*** ~~[~~of assets,~~]~~ and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

~~[~~(h)~~]~~ ***(g)*** Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

~~[~~(i)~~]~~ ***(h)*** Fixed annuities ***, including, without limitation, indexed annuities,*** as a limited line.

~~[~~(j)~~]~~ ***(i)*** Travel and baggage as a limited line.

~~[~~(k)~~]~~ ***(j)*** Rental car agency as a limited line.

~~[~~(l) Continuous care coverage, which includes health insurance, as set forth in paragraph (b), and may include insurance for workers' compensation.~~]~~

(k) Crop as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization

licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of all applicable renewal fees, except for any fee required pursuant to NRS 680C.110. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his or her license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where the resident producer of insurance principally conducts transactions under his or her license. The place of business may be in his or her residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which the licensee conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which the licensee conducts business as a producer of insurance or his or her business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a

hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 12.5. NRS 683A.367 is hereby amended to read as follows:

683A.367 1. A person licensed as a producer of ~~[continuous care coverage]~~ ***insurance*** shall not sell, solicit or negotiate ~~[insurance for workers' compensation]~~ ***continuous care coverage*** unless ~~[:~~

~~(a) The]~~ ***the*** person is licensed as a producer of ~~[casualty]~~ ***:***

(a) ~~*[Casualty]*~~ ***Accident and health insurance and casualty*** insurance; or

(b) ~~[The policy of insurance for workers' compensation is sold jointly with and supplemental to a policy of health insurance covering the same individual for the same policy period.]~~ ***Accident and health insurance and has received approval from the Commissioner to market continuous care coverage.***

2. A person who violates the provisions of subsection 1 is subject to an administrative fine pursuant to subsection 3 of NRS 683A.201.

Sec. 12.7. **NRS 683A.373 is hereby amended to read as follows:**

683A.373 As soon as practicable after preparing an annual list of ~~[external]~~ ***independent*** review organizations pursuant to subsection 8 of NRS 683A.371, the Commissioner shall submit a copy of the list to the Office for Consumer Health Assistance. If a change occurs in the list, the Commissioner shall notify the Office for Consumer Health Assistance of the change.

Sec. 13. Chapter 684A of NRS is hereby amended by adding thereto the provisions set forth as sections 14, 15 and 16 of this act.

Sec. 14. ***As used in this Code, unless the context otherwise requires, the words and terms defined in NRS 684A.020 and 684A.030 and section 15 of this act have the meanings ascribed to them in those sections.***

Sec. 15. ***"Home state" means:***

1. The District of Columbia or any state or territory of the United States in which an adjuster maintains his or her principal place of residence or principal place of business and is licensed to act as an adjuster; or

2. If neither the state in which the adjuster maintains his or her principal place of residence nor the state in which the adjuster maintains his or her principal place of business has a licensing or examination requirement, a state:

(a) Which has an examination requirement;

(b) In which the adjuster is licensed; and

(c) Which the adjuster declares to be the home state.

Sec. 16. ***1. The provisions of NRS 683A.341 and 686A.310 apply to adjusters and associate adjusters.***

2. For the purposes of subsection 1, unless the context requires that a section apply only to producers of insurance or insurers, any reference in those sections to "producer of insurance" or "insurer" must be replaced by a reference to "adjuster or associate adjuster."

Sec. 17. NRS 684A.020 is hereby amended to read as follows:

684A.020 1. ~~[As used in this Code, "adjuster"]~~ ***"Adjuster"*** means any person who, for compensation as an independent contractor or for a fee or commission, investigates and settles, and reports to his or her principal relative to, claims:

(a) Arising under insurance contracts for property, casualty or surety coverage, on behalf solely of the insurer or the insured; or

(b) Against a self-insurer who is providing similar coverage, unless the coverage provided relates to a claim for industrial insurance.

2. For the purposes of this chapter:

(a) An associate adjuster, as defined in NRS 684A.030;

(b) An attorney at law who adjusts insurance losses from time to time incidental to the practice of his or her profession;

(c) An adjuster of ocean marine losses;

(d) A salaried employee of an insurer; or

(e) A salaried employee of a managing general agent maintaining an underwriting office in this state,

➥ is not considered an adjuster.

Sec. 18. NRS 684A.030 is hereby amended to read as follows:

684A.030 ~~[As used in this Code:]~~

1. "Independent adjuster" means an adjuster representing the interests of an insurer or a self-insurer.

2. "Public adjuster" means an adjuster employed by and representing solely the financial interests of the insured named in the policy.

3. "Associate adjuster" means an employee of an adjuster who, under the direct supervision of the adjuster, assists in the investigation and settlement of insurance losses on behalf of his or her employer.

Sec. 19. NRS 684A.040 is hereby amended to read as follows:

684A.040 1. No person may act as, or hold himself or herself out to be, an adjuster or associate adjuster in this State unless then licensed as such under the applicable independent adjuster's license, public adjuster's license or associate adjuster's license, as the case may be, issued under the provisions of this chapter.

2. ~~[For purposes of this chapter, the Commissioner may issue a limited license to an adjuster handling claims under a contract of one or more of the kinds of insurance defined in NRS 681A.010 to 681A.080, inclusive.~~

~~3.~~] Any person violating the provisions of this section is guilty of a gross misdemeanor.

~~[4.]~~ ***3.*** A person who acts as an adjuster in this State without a license is subject to an administrative fine of not more than $1,000 for each violation.

Sec. 20. NRS 684A.070 is hereby amended to read as follows:

684A.070 1. For the protection of the people of this State, the Commissioner may not issue or continue any license as an adjuster except in compliance with the provisions of this chapter. Any person for whom a license is issued or continued must:

(a) Be at least 18 years of age;

(b) ~~[Except as otherwise provided in subsection 2, be a resident of this State, and have resided therein for at least 90 days before his or her application for the license;~~

~~(c)~~] Be competent, trustworthy, financially responsible and of good reputation;

~~[(d)]~~ ***(c)*** Never have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

~~[(e) Have had at least 2 years' recent experience with respect to the handling of loss claims of sufficient character reasonably to enable the person to fulfill the responsibilities of an adjuster;~~

~~(f) Pass~~] ***(d) Unless exempted pursuant to NRS 684A.100 or 684A.105, pass*** all examinations required under this chapter; and

~~[(g)]~~ ***(e)*** Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.

2. ~~[The Commissioner may waive the residency requirement set forth in paragraph (b) of subsection 1 if the applicant is:~~

~~(a) An adjuster licensed under the laws of another state who has been brought to this State by a firm or corporation with whom the adjuster is employed that is licensed as an adjuster in this State to fill a vacancy in the firm or corporation in this State;~~

~~(b) An adjuster licensed in an adjoining state whose principal place of business is located within 50 miles from the boundary of this State; or~~

~~(c) An adjuster who is applying for a limited license pursuant to NRS 684A.155.~~

~~3.~~] ***A natural person who is a resident of this State applying for a license must, as part of his or her application and at the applicant's own expense:***

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

3. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

4. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph ~~[(d)]~~ ***(c)*** of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.

Sec. 21. NRS 684A.100 is hereby amended to read as follows:

684A.100 Each person who intends to apply for a license as an adjuster must, before applying for the license, personally take and pass to the Commissioner's satisfaction a written examination testing the applicant's qualifications and competence to act as an adjuster and his or her knowledge of pertinent provisions of this Code ~~[.]~~ ***unless:***

1. The person:

(a) Is not a resident of this State;

(b) Has passed an examination to become licensed as an adjuster in the person's home state; and

(c) Is currently licensed and in good standing in the person's home state as an adjuster; or

2. The person was licensed in this State as the same type of adjuster within the 24-month period immediately preceding the date of the application, unless the previous license was revoked or suspended or its continuation was refused by the Commissioner.

Sec. 22. NRS 684A.105 is hereby amended to read as follows:

684A.105 An adjuster whose license expires is exempt from retaking the examination required by NRS 684A.100 if ~~[the adjuster applies and is relicensed within 6 months after the date of expiration.]~~ ***:***

1. The adjuster:

(a) Is not a resident of this State;

(b) Has passed an examination to become licensed as an adjuster in the person's home state; and

(c) Is currently licensed and in good standing in the person's home state as an adjuster; or

2. The adjuster was licensed in this State as the same type of adjuster within the 24-month period immediately preceding the date of the application, unless the previous license was revoked or suspended or its continuation was refused by the Commissioner.

Sec. 23. NRS 684A.130 is hereby amended to read as follows:

684A.130 1. Each license issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of all applicable fees for renewal to the Commissioner and submission of the statement required pursuant to NRS 684A.143 if the licensee is a natural person. The statement, if required, must be submitted and all applicable fees must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by the Commissioner within 30 days after the expiration of the license if the request is accompanied by:

(a) A fee for renewal of 150 percent of all applicable fees otherwise required, except for any fee required pursuant to NRS 680C.110; ~~[and]~~

(b) If the person requesting renewal is a natural person, the statement required pursuant to NRS 684A.143 ~~[.]~~ ***;***

(c) Proof of successful completion of any requirement for an examination unless exempt pursuant to NRS 684A.105; and

(d) If applicable, a request for a waiver of the time limit for renewal and of any fine or sanction otherwise required or imposed because of the

failure of the licensee to renew his or her license because of military service, extended medical disability or other extenuating circumstance.

3. This section does not apply to temporary licenses issued under NRS 684A.150.

Sec. 24. NRS 684A.143 is hereby amended to read as follows:

684A.143 1. A natural person who applies for the issuance or renewal of a license shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license may not be issued or renewed by the Commissioner if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. As used in this section, "license" means:

(a) A license as an adjuster; ***and***

(b) A license as an associate adjuster**.** ~~[~~~, and~~

~~(c) A limited license issued pursuant to NRS 684A.155.~~**]**

Sec. 25. NRS 684A.147 is hereby amended to read as follows:

684A.147 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the

Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a license that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

3. As used in this section, "license" means:

(a) A license as an adjuster; ***and***

(b) A license as an associate adjuster **.** ~~[~~~~, and~~

~~(c) A limited license issued pursuant to NRS 684A.155.~~**]**

Sec. 26. NRS 684A.200 is hereby amended to read as follows:

684A.200 Nonresidents of this state who are granted licenses as adjusters pursuant to ~~[~~~~subsection 2 of~~~~]~~ NRS 684A.070 are also subject to NRS 683A.281.

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 685A.210 is hereby amended to read as follows:

685A.210 1. The Commissioner may adopt reasonable regulations, consistent with the provisions of this chapter, for any of the following purposes:

(a) Effectuation of the law;

(b) Establishment of procedures through which determination is to be made as to the eligibility of particular proposed coverages for export; ~~[~~~~and~~~~]~~

(c) Establishment of procedures for the operation of a nonprofit organization of brokers designed to assist brokers in complying with the provisions of this chapter ~~[~~**.**~~]~~ ***; and***

(d) The use of electronic signatures and the acceptance and transmission of electronic records and payments, including transactions involving claims and other transactions relating to surplus lines insurance.

2. Such regulations carry the penalty provided by NRS 679B.130.

Sec. 30. Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other law or regulation, an insurer that uses credit information shall, upon receipt of a written request from an applicant or policyholder, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for an applicant or policyholder who has experienced

and whose credit information has been directly influenced by any of the following:

(a) A catastrophic event, as declared by the Federal or State Government;

(b) A serious illness or injury, or a serious illness or injury to an immediate family member;

(c) The death of a spouse, child or parent;

(d) Divorce or involuntary interruption of legally-owed alimony or support payments;

(e) Identify theft;

(f) Temporary loss of employment for a period of 3 months or more, if it results from involuntary termination;

(g) Military deployment overseas; or

(h) Other events, as determined by the insurer.

2. If an applicant or policyholder submits a request for an exception as set forth in subsection 1, an insurer may, in its sole discretion:

(a) Require the applicant or policyholder to provide reasonable written and independently verifiable documentation of the event;

(b) Require the applicant or policyholder to demonstrate that the event had direct and meaningful impact on the credit information of the applicant or policyholder;

(c) Require that such a request be made not more than 60 days after the date of the application for insurance or the policy renewal;

(d) Grant an exception despite the applicant or policyholder not providing the initial request for an exception in writing; or

(e) Grant an exception where the applicant or policyholder asks for consideration of repeated events or the insurer has considered this event previously.

3. An insurer is not out of compliance with any law or rule relating to underwriting, rating or rate filing as a result of granting an exception under this section. Nothing in this section shall be construed to provide an applicant or policyholder with a cause of action that does not exist in the absence of this section.

4. The insurer shall provide notice to each applicant and policyholder that reasonable exceptions are available and include information about how the applicant or policyholder may inquire further about such exceptions.

5. Within 30 days after the insurer's receipt of sufficient documentation of an event described in subsection 1, the insurer shall inform the applicant or policyholder of the outcome of the request for a reasonable exception. Such communication must be in writing or provided to the applicant or policyholder in the same medium as the request.

6. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 31. NRS 686A.600 is hereby amended to read as follows:

686A.600 As used in NRS 686A.600 to 686A.730, inclusive, ***and section 30 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 686A.610 to 686A.660, inclusive, have the meanings ascribed to them in those sections.

Sec. 32. NRS 686A.670 is hereby amended to read as follows:

686A.670 The provisions of NRS 686A.600 to 686A.730, inclusive, ***and section 30 of this act*** do not apply to a contract of surety insurance issued pursuant to chapter 691B of NRS or any commercial or business policy.

Sec. 33. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2, NRS 686B.010 to 686B.1799, inclusive, apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;

(c) Life insurance and credit life insurance;

(d) Variable and fixed annuities;

(e) ~~[~~Group and blanket health insurance and credit~~]~~ ***Credit*** ***accident and*** health insurance;

(f) Property insurance for business and commercial risks;

(g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS; ~~[~~and~~]~~

(h) Surety insurance ~~[.]~~ ***;*** ~~*[and]*~~

(i) Health insurance offered through a group health plan maintained by a large employer ~~*[.]*~~ ***; and***

(j) Credit involuntary unemployment insurance.

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

~~*[3. As used in this section, "large employer" has the meaning ascribed to it in 42 U.S.C. § 18024(b)(1).]*~~

Sec. 33.1. **Chapter 686C of NRS is hereby amended by adding thereto a new section to read as follows:**

"Unallocated annuity contract" means an annuity contract or group annuity certificate which is not issued to and owned by a natural person except to the extent such an annuity contract or group annuity certificate is guaranteed to a natural person by an insurer under such contract or certificate.

Sec. 33.3. **NRS 686C.035 is hereby amended to read as follows:**

686C.035 1. This chapter does not provide coverage for:

(a) A portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the owner of the policy or contract.

(b) A policy or contract of reinsurance unless assumption certificates have been issued pursuant to that policy or contract.

(c) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate or similar factor determined by the use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(1) Averaged over the period of 4 years before the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 2 percentage points from Moody's Corporate Bond Yield Average averaged for the same period, or for the period between the date of issuance of the policy or contract and the date the association became obligated, whichever period is less; and

(2) On or after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 3 percentage points from Moody's Corporate Bond Yield Average as most recently available.

(d) A portion of a policy or contract issued to a plan or program of an employer, association or other person to provide life, health or annuity benefits to its employees, members or other persons to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association or other person under:

(1) A multiple employer welfare arrangement described in 29 U.S.C. § 1144;

(2) A minimum-premium group insurance plan;

(3) A stop-loss group insurance plan; or

(4) A contract for administrative services only.

(e) A portion of a policy or contract to the extent that it provides for dividends, credits for experience, voting rights or the payment of any fee or allowance to any person, including the owner of a policy or contract, for services or administration connected with the policy or contract.

(f) A policy or contract issued in this state by a member insurer at a time when the member insurer was not authorized to issue the policy or contract in this state.

(g) A portion of a policy or contract to the extent that the assessments required by NRS 686C.230 with respect to the policy or contract are preempted by federal law.

(h) An obligation that does not arise under the express written terms of the policy or contract issued by the insurer, including:

(1) Claims based on marketing materials;

(2) Claims based on side letters or other documents that were issued by the insurer without satisfying applicable requirements for filing or approval of policy forms;

(3) Misrepresentations of or regarding policy benefits;

(4) Extra-contractual claims; or

(5) A claim for penalties or consequential or incidental damages.

(i) A contractual agreement that establishes the member insurer's obligation to provide a guarantee based on accounting at book value for participants in a defined-contribution benefit plan by reference to a portfolio of assets owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

(j) A portion of a policy or contract to the extent that it provides for interest or other changes in value which are determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the rights of the owner of the policy or contract are subject to forfeiture, determined on the date the member insurer becomes an impaired or insolvent insurer, whichever occurs first. If the interest or changes in value of a policy or contract are credited less frequently than annually, for the purpose of determining the values that have been credited and are not subject to forfeiture, the interest or change in value determined by using procedures stated in the policy or contract must be credited as if the contractual date for crediting interest or changing values was the date of the impairment or insolvency of the insured member, whichever occurs first and is not subject to forfeiture.

(k) An unallocated annuity contract ~~[.]~~ ***other than an annuity owned by a governmental retirement plan established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan.***

2. As used in this section, "Moody's Corporate Bond Yield Average" means the monthly average for corporate bonds published by Moody's Investors Service, Inc., or any successor average.

Sec. 33.5. **NRS 686C.040 is hereby amended to read as follows:**

686C.040 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 686C.045 to 686C.125, inclusive, ***and section 33.1 of this act*** have the meanings ascribed to them in those sections.

Sec. 33.7. **NRS 686C.210 is hereby amended to read as follows:**

686C.210 1. The benefits that the Association may become obligated to cover may not exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(b) With respect to one life, regardless of the number of policies or contracts:

(1) Three hundred thousand dollars in death benefits from life insurance, but not more than $100,000 in net cash for surrender and withdrawal for life insurance; or

(2) One hundred thousand dollars in the present value of benefits from annuities, including net cash for surrender and withdrawal;

(c) With respect to health insurance for any one natural person:

(1) One hundred thousand dollars for coverages other than disability insurance, basic hospital, medical and surgical insurance or major medical insurance, including any net cash for surrender or withdrawal;

(2) Three hundred thousand dollars for disability insurance; or

(3) Five hundred thousand dollars for basic hospital, medical and surgical insurance or major medical insurance; ~~[or]~~

(d) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, $100,000 in present value of benefits from the annuity in the aggregate, including any net cash for surrender or withdrawal ~~[.]~~ ***; or***

(e) With respect to each participant in a governmental retirement plan covered by an unallocated annuity contract which is owned by a governmental retirement plan established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan, and which is approved by the Commissioner, an aggregate of $100,000, regardless of the number of contracts.

2. In no event is the Association obligated to cover more than:

(a) With respect to any one life or person under paragraphs (b) and (c) of subsection 1:

(1) An aggregate of $300,000 in benefits, excluding benefits for basic hospital, medical and surgical insurance or major medical insurance; or

(2) An aggregate of $500,000 in benefits, including benefits for basic hospital, medical and surgical insurance or major medical insurance.

(b) With respect to one owner of several nongroup policies of life insurance, whether the owner is a natural person or an organization and whether the persons insured are officers, managers, employees or other persons, more than $5,000,000 in benefits, regardless of the number of policies and contracts held by the owner.

3. The limitations set forth in this section are limitations on the benefits for which the Association is obligated before taking into account its rights to subrogation or assignment or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The cost of the Association's obligations under this chapter

may be met by the use of assets attributable to covered policies, or reimbursed to the Association pursuant to its rights to subrogation or assignment.

4. In performing its obligation to provide coverage under NRS 686C.150 and 686C.152, the Association need not guarantee, assume, reinsure or perform, or cause to be guaranteed, assumed, reinsured or performed, the contractual obligations of the impaired or insolvent insurer under a covered policy or contract which do not materially affect the economic value or economic benefits of the covered policy or contract.

Sec. 34. NRS 687A.037 is hereby amended to read as follows:

687A.037 "Member insurer" means any person, except a fraternal or nonprofit service corporation which:

1. Writes any kind of insurance to which this chapter applies, including the exchange of reciprocal or interinsurance agreements of indemnity.

2. Is ~~[licensed]~~ ***authorized*** to transact insurance in this state.

Sec. 35. NRS 687B.120 is hereby amended to read as follows:

687B.120 1. ***Except as otherwise provided in subsection 2:***

(a) No life or health insurance policy or contract, annuity contract form, policy form, health care plan or plan for dental care, whether individual, group or blanket, including those to be issued by a health maintenance organization, organization for dental care or prepaid limited health service organization, or application form where a written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, or form of individual certificate or statement of coverage to be issued under group or blanket contracts, or by a health maintenance organization, organization for dental care or prepaid limited health service organization, may be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner. ~~[This subsection does not apply to any special rider or endorsement which relates to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies, which special riders or endorsements are used at the request of the individual policyholder, contract holder or certificate holder.]~~

(b) As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state must be filed, for informational purposes only, with the Commissioner at the request of the Commissioner.

2. ***As to group insurance policies to be issued to a group approved pursuant to NRS 688B.030 or 689B.026, no policies of group insurance may be marketed to a resident or employer of this State unless the policy and any form or certificate to be issued pursuant to the policy has been filed with and approved by the Commissioner.***

3. Every ~~[such]~~ filing ***made pursuant to the provisions of subsection 1 or 2*** must be made not less than 45 days in advance of any ~~[such]~~ delivery ~~[.]~~ ***pursuant to subsection 1 or marketing pursuant to subsection 2.*** At the expiration of 45 days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. Approval of any such form by the Commissioner constitutes a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not more than an additional 30 days the period within which the Commissioner may so affirmatively approve or disapprove any such form, by giving notice to the insurer of the extension before expiration of the initial 45-day period. At the expiration of any such period as so extended, and in the absence of prior affirmative approval or disapproval, any such form shall be deemed approved. The Commissioner may at any time, after notice and for cause shown, withdraw any such approval.

~~[3.]~~ ***4.*** Any order of the Commissioner disapproving any such form or withdrawing a previous approval must state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

~~[4.]~~ ***5.*** The Commissioner may, by order, exempt from the requirements of this section for so long as the Commissioner deems proper any insurance document or form or type thereof specified in the order, to which, in the opinion of the Commissioner, this section may not practicably be applied, or the filing and approval of which are, in the opinion of the Commissioner, not desirable or necessary for the protection of the public.

~~[5.]~~ ***6.*** Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

Sec. 36. Chapter 688A of NRS is hereby amended by adding thereto a new section to read as follows:

1. An annuity or policy of life insurance may incorporate long-term care insurance if:

(a) The long-term care insurance incorporated into the annuity or policy of life insurance complies with regulations adopted by the Commissioner.

(b) The Commissioner approves the incorporation of long-term care insurance into the annuity or policy of life insurance.

2. The Commissioner shall adopt regulations that define "long-term care insurance" for the purposes of this section.

Sec. 37. NRS 688A.020 is hereby amended to read as follows:

688A.020 ***1.*** For the purposes of this Code, an "annuity" is a contract under which obligations are assumed to make periodic payments for a

specific term or terms or where the making or continuance of all or some such payments, or the amount of any such payment, is dependent upon continuance of human life, except payments made pursuant to optional modes of settlement under the authority of NRS 681A.040 **.** ~~[("life insurance" defined). Such a contract which includes extra benefits of the kinds set forth in NRS 681A.030 ("health insurance" defined) and NRS 681A.040 ("life insurance" defined) shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.]~~

2. The term includes an annuity contract which incorporates long-term care insurance if the annuity contract may incorporate the long-term care insurance pursuant to section 36 of this act.

Sec. 38. NRS 688A.165 is hereby amended to read as follows:

688A.165 ***1.*** No ***annuity contract, pure endowment contract or*** policy of life insurance, other than ~~[an industrial life insurance]~~ ***a replacement contract or*** policy, may be delivered or issued for delivery in this state unless it contains a provision, or a notice attached to the ***contract or*** policy, which, in substance, states that during a period of 10 days from the date the ***contract or*** policy is delivered to the ***contract or*** policy owner, it may be surrendered to the insurer together with a written request for cancellation of the ***contract or*** policy and in such event, the insurer will refund any premium paid therefor, including any ***contract or*** policy fees or other charges.

2. No annuity contract, pure endowment contract or policy of life insurance that is a replacement contract or policy may be delivered or issued for delivery in this State unless it contains a provision, or a notice attached to the contract or policy, which, in substance, states that during a period of 30 days after the date on which the contract or policy is delivered to the contract or policy owner, it may be surrendered to the insurer together with a written request for cancellation of the contract or policy and in such event, the insurer will refund any premium paid therefor, including any contract or policy fees or other charges.

3. This section does not apply to industrial life insurance policies.

Sec. 39. NRS 688A.180 is hereby amended to read as follows:

688A.180 1. No annuity or pure endowment contract, other than reversionary annuities (also called survivorship annuities) or group annuities and except as stated in this section, shall be delivered or issued for delivery in this state unless it contains in substance each of the provisions specified in NRS ***688A.165 and*** 688A.190 to 688A.240, inclusive. Any of such provisions not applicable to single-premium annuities or single-premium pure endowment contracts shall not, to that extent, be incorporated therein.

2. This section does not apply to contracts for deferred annuities included in, or upon the lives of beneficiaries under, life insurance policies.

Sec. 40. NRS 688A.363 is hereby amended to read as follows:

688A.363 1. The minimum values, specified in NRS 688A.3631 to 688A.3637, inclusive, and 688A.366, of any paid-up annuity, cash surrender or death benefits available under an annuity contract must be based upon minimum nonforfeiture amounts as defined in this section.

2. ~~[With respect to contracts providing for flexible considerations, the]~~ ***The*** minimum nonforfeiture amount for any time at or before the commencement of any annuity payments is equal to an accumulation ***of 87.5 percent of the gross considerations*** up to such time at a rate of interest calculated pursuant to subsection 3, which must be decreased by the sum of:

(a) Any prior withdrawals from or partial surrenders of the contract, accumulated at a rate of interest calculated pursuant to subsection 3;

(b) An annual charge in the amount of $50, accumulated at rates of interest calculated pursuant to subsection 3;

(c) Any premium tax paid by the company for the contract, accumulated at rates of interest calculated pursuant to subsection 3; and

(d) The amount of any indebtedness to the company on the contract, including interest due and accrued.

~~[➥ The net considerations for a given contract year used to define the minimum nonforfeiture amount must be an amount that is equal to 87.5 percent of the gross considerations credited to the contract during that contract year.]~~

3. For the purpose of this section, the rate of interest used to determine the minimum nonforfeiture amounts must be an annual rate of interest determined as the lesser of 3 percent per annum or a rate specified in the contract if the rate is calculated in accordance with regulations adopted by the Commissioner, except that at no time may the resulting rate be less than 1 percent per annum.

4. The Commissioner may provide by regulation for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit or for other contracts that the Commissioner determines require adjustment. An adjustment to the calculation of the interest rate used to determine the minimum nonforfeiture amounts authorized under this subsection may not result in an interest rate of less than 1 percent per annum.

Sec. 41. NRS 688A.3633 is hereby amended to read as follows:

688A.3633 ***1.*** For contracts which provide cash surrender benefits, such benefits available before maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid before the time of cash surrender,

reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate of not more than 1 percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. Any cash surrender benefit shall not be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

2. For annuity contracts issued on or after January 1, 2012, that provide cash surrender benefits:

(a) The cash surrender value on or past the maturity date must be equal to the amount used to determine the annuity benefits;

(b) A surrender charge may not be imposed on or past the maturity date of the annuity contract; and

(c) For annuity contracts with one or more renewable guaranteed periods, a new surrender charge schedule may be imposed for each new guaranteed period if:

(1) The surrender charge is zero at the end of each guaranteed period and remains zero for at least 30 days;

(2) The contract provides for continuation of the contract without surrender charges unless the contract holder specifically elects a new guaranteed period with a new surrender charge schedule; and

(3) The renewal period does not exceed 10 years and the maturity date complies with NRS 688A.3637.

3. An annuity contract that provides for flexible considerations may have separate surrender charge schedules associated with each consideration.

Sec. 42. NRS 688A.3637 is hereby amended to read as follows:

688A.3637 ***1.*** For the purpose of determining the benefits calculated under NRS 688A.3633 and 688A.3635 ~~[, in]~~ ***:***

(a) In the case of annuity contracts ***issued before January 1, 2012,*** under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election is permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, whichever is later.

(b) In the case of annuity contracts issued on or after January 1, 2012, the maturity date shall be deemed to be the latest date permitted by the contract, but shall not be deemed to be later than the anniversary of the

contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, whichever is later.

2. For the purpose of determining the maturity date under this section for an annuity contract that provides for flexible considerations, the 10th anniversary of the contract is determined separately for each consideration.

Sec. 43. NRS 688C.200 is hereby amended to read as follows:

688C.200 1. Upon the filing of an application and payment of all applicable fees, the Commissioner shall investigate the applicant, and issue a license if the Commissioner finds that the applicant:

(a) If a provider of viatical settlements, has set forth a detailed plan of operation;

(b) Is competent and trustworthy and intends to act in good faith in the capacity for which the license is sought;

(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies the applicant in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements:

(1) Has included a plan to prevent fraud which satisfies the requirements of NRS 688C.490; and

(2) Has demonstrated evidence of financial responsibility through either:

(I) A surety bond executed and issued by an authorized surety in favor of the State of Nevada, continuous in form and in an amount as determined by the Commissioner, of not less than $250,000; or

(II) A deposit of cash, certificates of deposit, securities or any combination thereof in the amount of $250,000.

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable written consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

4. Notwithstanding any provision of this section to the contrary, the Commissioner shall accept as evidence of financial responsibility proof that financial instruments complying with the requirements of this section have been filed with a state where the applicant is licensed as a ***provider or*** broker of viatical settlements.

5. A surety bond issued for the purposes of this section must specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as a result of:

(a) Erroneous acts;

(b) Failure to act; or

(c) Conviction of:

(1) Fraud; or

(2) Unfair practices,

➥ by the provider or broker of viatical settlements.

6. The Commissioner may request evidence of financial responsibility as described in subparagraph (2) of paragraph (e) of subsection 1 at any time the Commissioner deems necessary.

Sec. 44. NRS 689.175 is hereby amended to read as follows:

689.175 1. The proposed seller, or the appropriate corporate officer of the proposed seller, shall apply in writing to the Commissioner for a seller's certificate of authority, showing:

(a) The proposed seller's name and address, and his or her occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner; ***and***

(e) **[**~~A complete set of the fingerprints of the proposed seller, or the appropriate corporate officer of the proposed seller, and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and~~

~~(g)~~ The applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 45. NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money

under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number and personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) ~~[Be accompanied by a complete set of the fingerprints of the applicant and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

~~(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.~~

~~(e)]~~ Be accompanied by the statement required pursuant to NRS 689.258.

~~[(f)]~~ ***(d)*** Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

4. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal

Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 46. NRS 689.490 is hereby amended to read as follows:

689.490 1. The proposed seller, or the appropriate corporate officer of the seller, shall apply in writing to the Commissioner for a seller's permit, showing:

(a) The proposed seller's name and address and his or her occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner; ***and***

(e) ~~[~~A complete set of the fingerprints of the proposed seller, or the appropriate corporate officer of the seller, and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and~~

~~(g)~~] The applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 47. NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) ~~[~~Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

~~(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.~~

~~(e)]~~ Be accompanied by the statement required pursuant to NRS 689.258.

~~[(f)]~~ ***(d)*** Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

4. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 48. NRS 689A.745 is hereby amended to read as follows:

689A.745 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of health insurance issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a policy of health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 49. NRS 689B.026 is hereby amended to read as follows:

689B.026 1. Except as otherwise provided in this section, no policy of group health insurance may be delivered or issued for delivery in this state to a group which was formed for the purpose of purchasing one or more policies of group health insurance.

2. A policy of group health insurance may be delivered to a group described in subsection 1 if the Commissioner approves the issuance. The Commissioner shall not grant approval unless the Commissioner finds that:

(a) The benefits of the policy are reasonable in relation to the premiums charged; ~~[and]~~

(b) The group to which the policy is issued is organized and operated in a fiscally sound manner ~~[.]~~ ***; and***

(c) All policy rates and forms are filed with and approved by the Division before marketing to a resident or employer in this State.

3. ~~[Upon approval by the Commissioner, an insurer may exclude or limit the coverage in a policy issued pursuant to this section of any person as to whom evidence of insurability is not satisfactory to the insurer.]~~ ***The Commissioner shall use the provisions of this chapter and chapter 689C of NRS to review insurance products marketed to employers in this State. The Commissioner shall use the provisions of chapter 689A of NRS to review insurance products marketed to natural persons in this State.***

4. The provisions of this section apply to the offering in this state of a policy issued in another state.

Sec. 50. NRS 689B.0285 is hereby amended to read as follows:

689B.0285 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of group health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of group health insurance issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a policy of group health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning the health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 51. NRS 689B.080 is hereby amended to read as follows:

689B.080 Any insurer authorized to write health insurance in this state, including a nonprofit corporation for hospital, medical or dental services that has a certificate of authority issued pursuant to chapter 695B of NRS, may issue blanket accident and health insurance. No blanket policy, except as provided in subsection ~~[4]~~ ***5*** of NRS 687B.120, may be issued or delivered in this state unless a copy of the form thereof has been filed in accordance with NRS 687B.120. Every blanket policy must contain provisions which in the opinion of the Commissioner are not less favorable to the policyholder and the individual insured than the following:

1. A provision that the policy, including endorsements and a copy of the application, if any, of the policyholder and the persons insured constitutes the entire contract between the parties, and that any statement made by the policyholder or by a person insured is in the absence of fraud a representation and not a warranty, and that no such statements may be used in defense to a claim under the policy, unless contained in a written application. The insured or the beneficiary or assignee of the insured has the right to make a written request to the insurer for a copy of an application, and the insurer shall, within 15 days after the receipt of a request at its home office or any branch office of the insurer, deliver or mail to the person making the request a copy of the application. If a copy is not so delivered or mailed, the insurer is precluded from introducing the application as evidence in any action based upon or involving any statements contained therein.

2. A provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when the sickness or injury occurred. Failure to give notice within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to give notice and that notice was given as soon as was reasonably possible.

3. A provision that the insurer will furnish to the claimant or to the policyholder for delivery to the claimant such forms as are usually furnished by it for filing proof of loss. If the forms are not furnished before the expiration of 15 days after giving written notice of sickness or injury, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

4. A provision that in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within 90 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within 90 days after the date of the loss. Failure to furnish such proof within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to furnish proof and that the proof was furnished as soon as was reasonably possible.

5. A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of written proof of loss, and that, subject to proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that

any balance remaining unpaid at the termination of that period will be paid immediately upon receipt of proof.

6. A provision that the insurer at its own expense has the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy where it is not prohibited by law.

7. A provision, if applicable, setting forth the provisions of NRS 689B.035.

8. A provision for benefits for expense arising from care at home or health supportive services if that care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

9. A provision that no action at law or in equity may be brought to recover under the policy before the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action may be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

Sec. 51.3. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

"Employee leasing company" has the meaning ascribed to it in NRS 616B.670.

Sec. 51.5. NRS 689C.015 is hereby amended to read as follows:

689C.015 Except as otherwise provided in this chapter, as used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 689C.017 to 689C.106, inclusive, ***and section 51.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 51.7. NRS 689C.065 is hereby amended to read as follows:

689C.065 ***1.*** **"**Eligible employee" means a permanent employee who has a regular working week of 30 or more hours.

2. The term includes a sole proprietor **,** ~~[or]~~ a partner of a partnership ~~[,]~~ ***or an employee of an employee leasing company,*** if the sole proprietor **,** ~~[or]~~ partner ***or employee of the employee leasing company*** is included as an employee under a health benefit plan of a small employer.

Sec. 51.9. **NRS 689C.111 is hereby amended to read as follows:**

689C.111 1. If an employer was not in existence throughout the entire preceding calendar year, the determination of whether the employer is a small or large employer must be based on the average number of employees reasonably expected to be employed on business days in the current calendar year.

2. Except as otherwise provided by specific statute, the provisions of this chapter that apply to a small employer at the time that a carrier issues a health benefit plan to the small employer pursuant to the provisions of this chapter continue to apply at least until the plan anniversary following the date on which the small employer no longer meets the requirements of being a small employer.

3. An employee leasing company which has more than 50 employees, including leased employees at client locations, and which sponsors a fully insured health benefit plan for those employees shall be deemed to be a large employer for the purposes of this chapter.

Sec. 52. NRS 689C.156 is hereby amended to read as follows:

689C.156 1. As a condition of transacting business in this State with small employers, a carrier shall actively market to a small employer each health benefit plan which is actively marketed in this State by the carrier to any small employer in this State. The health insurance plans marketed pursuant to this section by the carrier must include, without limitation, a basic health benefit plan and a standard health benefit plan. A carrier shall be deemed to be actively marketing a health benefit plan when it makes available any of its plans to a small employer that is not currently receiving coverage under a health benefit plan issued by that carrier.

2. A carrier shall issue to a small employer any health benefit plan marketed in accordance with this section if the eligible small employer applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan that are not inconsistent with NRS 689C.015 to 689C.355, inclusive, ***and section 51.3 of this act,*** and 689C.610 to 689C.980, inclusive, except that a carrier is not required to issue a health benefit plan to a self-employed person who is covered by, or is eligible for coverage under, a health benefit plan offered by another employer.

3. If a health benefit plan marketed pursuant to this section provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, the carrier shall provide a system for resolving any complaints of an employee concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 53. NRS 690B.023 is hereby amended to read as follows:

690B.023 If insurance for the operation of a motor vehicle required pursuant to NRS 485.185 is provided by a contract of insurance, the insurer shall:

1. Provide evidence of insurance to the insured on a form approved by the Commissioner. The evidence of insurance must include:

(a) The name and address of the policyholder;

(b) The name and address of the insurer;

(c) ***Vehicle information, consisting of:***

(1) The year, make and complete identification number of the insured vehicle or vehicles; ***or***

(2) The word "Fleet" if the vehicle is covered under a fleet policy written on an any auto basis or blanket policy basis;

(d) The term of the insurance, including the day, month and year on which the policy:

(1) Becomes effective; and

(2) Expires;

(e) The number of the policy;

(f) A statement that the coverage meets the requirements set forth in NRS 485.185; and

(g) The statement "This card must be carried in the insured motor vehicle for production upon demand." The statement must be prominently displayed.

2. Provide new evidence of insurance if:

(a) The information regarding the insured vehicle or vehicles required pursuant to paragraph (c) of subsection 1 no longer is accurate;

(b) An additional motor vehicle is added to the policy;

(c) A new number is assigned to the policy; or

(d) The insured notifies the insurer that the original evidence of insurance has been lost.

Sec. 54. Chapter 690C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner may refuse to renew or may suspend, limit or revoke a provider's certificate of registration if the Commissioner finds after a hearing thereon, or upon waiver of hearing by the provider, that the provider has:

(a) Violated or failed to comply with any lawful order of the Commissioner;

(b) Conducted business in an unsuitable manner;

(c) Willfully violated or willfully failed to comply with any lawful regulation of the Commissioner; or

(d) Violated any provision of this chapter.

➥ In lieu of such a suspension or revocation, the Commissioner may levy upon the provider, and the provider shall pay forthwith, an administrative fine of not more than $1,000 for each act or violation.

2. The Commissioner shall suspend or revoke a provider's certificate of registration on any of the following grounds if the Commissioner finds after a hearing thereon that the provider:

(a) Is in unsound condition, is being fraudulently conducted, or is in such a condition or is using such methods and practices in the conduct of

its business as to render its further transaction of service contracts in this State currently or prospectively injurious to service contract holders or to the public.

(b) Refuses to be examined, or its directors, officers, employees or representatives refuse to submit to examination relative to its affairs, or to produce its books, papers, records, contracts, correspondence or other documents for examination by the Commissioner when required, or refuse to perform any legal obligation relative to the examination.

(c) Has failed to pay any final judgment rendered against it in this State upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within 30 days after the judgment became final or within 30 days after dismissal of an appeal before final determination, whichever date is the later.

3. The Commissioner may, without advance notice or a hearing thereon, immediately suspend the certificate of registration of any provider that has filed for bankruptcy or otherwise been deemed insolvent.

Sec. 55. NRS 690C.170 is hereby amended to read as follows:

690C.170 To be issued a certificate of registration, a provider must comply with one of the following:

1. Purchase a contractual liability insurance policy which insures the obligations of each service contract the provider issues, sells or offers for sale. The contractual liability insurance policy must be issued by an insurer ***which is not an affiliate of the provider and which is*** authorized to transact insurance in this state or pursuant to the provisions of chapter 685A of NRS ~~[.]~~ ***; or***

2. ~~[~~Maintain a reserve account and deposit with the Commissioner security as provided in this subsection. The reserve account must contain at all times an amount of money equal to at least 40 percent of the gross consideration received by the provider for any unexpired service contracts, less any claims paid on those unexpired service contracts. The Commissioner may examine the reserve account at any time. The provider shall also deposit with the Commissioner security in an amount that is equal to $25,000 or 5 percent of the gross consideration received by the provider for any unexpired service contracts, less any claims paid on the unexpired service contracts, whichever is greater. The security must be:

(a) A surety bond issued by a surety company authorized to do business in this state;

(b) Securities of the type eligible for deposit pursuant to NRS 682B.030;

(c) Cash;

(d) An irrevocable letter of credit issued by a financial institution approved by the Commissioner; or

(e) In any other form prescribed by the Commissioner.

~~3.]~~ Maintain, or be a subsidiary of a parent company that maintains, a net worth or stockholders' equity of at least $100,000,000. Upon request, a provider shall provide to the Commissioner a copy of the most recent Form 10-K report or Form 20-F report filed by the provider or parent company of the provider with the Securities and Exchange Commission within the previous year. If the provider or parent company is not required to file those reports with the Securities and Exchange Commission, the provider shall provide to the Commissioner a copy of the most recently audited financial statements of the provider or parent company. If the net worth or stockholders' equity of the parent company of the provider is used to comply with the requirements of this subsection, the parent company must guarantee to carry out the duties of the provider under any service contract issued or sold by the provider.

Sec. 56. Chapter 691A of NRS is hereby amended by adding thereto a new section to read as follows:

The Commissioner may adopt regulations to carry out the provisions of this chapter.

Sec. 57. NRS 691A.020 is hereby amended to read as follows:

691A.020 1. ~~[Each]~~ ***Except as otherwise provided in subsection 3, each*** insurer which provides ***a policy for a personal line of*** property insurance covering ***a manufactured home or*** mobile ~~[homes]~~ ***home*** in Nevada ***that was manufactured within the immediately preceding 15 years*** shall offer ~~[,]~~ ***to an insured, on a form approved by the Commissioner and*** in addition to any other insurance, ***the option of purchasing*** insurance to pay the ~~[market]~~ ***replacement*** value of the ***manufactured home or*** mobile home in the event of a total loss of the ***manufactured home or*** mobile home ~~[.]~~ ***, including*** ~~*[, without limitation,]*~~ ***the reasonable costs for:***

(a) Transporting and installing the replacement manufactured home or mobile home; and

(b) Debris removal.

2. Nothing in this section requires any insurer to offer any insurance on ***manufactured homes or*** mobile homes at a premium which is not fair and adequate.

3. The provisions of this section do not apply to a policy of insurance placed on a manufactured home or a mobile home by a creditor or lender.

4. As used in this section:

(a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.

(b) "Replacement value" means the amount needed to repair, replace or rebuild a damaged or destroyed manufactured home or mobile home using new materials of similar kind and quality with no deduction for depreciation. The term does not include the value of land.

Sec. 58. NRS 692A.1041 is hereby amended to read as follows:

692A.1041 1. In addition to all other requirements set forth in this title and except as otherwise provided in subsection 4 and NRS 692A.1042, as a condition to doing business in this State, each title agent and title insurer shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 3, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the title agency or title insurer and all escrow officers employed by or associated with the title agent or title insurer.

2. The bond must be in substantially the following form:

Know All Persons by These Presents, that ....., as principal, and ....., as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any of the provisions of chapter 692A of NRS, in the sum of ....., lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the Commissioner of Insurance of the Department of Business and Industry of the State of Nevada has issued the principal a license or certificate of authority as a title agent or title insurer, and the principal is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, the principal's agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 692A of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 692A of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 692A of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the .....(day) of .....(month) of .....(year), and remains in force until the surety is released from liability by the Commissioner of Insurance or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Insurance of the Department of Business and Industry of the State of Nevada.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at ....., Nevada, this .....(day) of .....(month) of .....(year).

…….(Seal)

Principal

……(Seal)

Surety

By……

Attorney-in-fact

……

~~[Licensed resident]~~ ***Nevada licensed insurance*** agent

3. Each title agent and title insurer shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of NRS 692A.1042 in an amount that:

(a) Is not less than $20,000 or 2 percent of the average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250, whichever is greater; and

(b) Is not more than $250,000.

➥ The Commissioner shall determine the appropriate amount of the surety bond or substitute form of security that must be deposited initially by the title agent or title insurer based upon the expected average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250. After the initial deposit, the Commissioner shall, on an annual basis, determine the appropriate amount of the surety bond or substitute form of security that must be deposited by the title agent or title insurer based upon the average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250.

4. A title agent or title insurer may offset or reduce the amount of the surety bond or substitute form of security that the title agent or title insurer is required to deposit pursuant to subsection 3 by the amount of any of the following:

(a) Cash or securities deposited with the Commissioner in this State pursuant to NRS 680A.140 or 682B.015.

(b) Reserves against unpaid losses and loss expenses maintained pursuant to NRS 692A.150 or 692A.170.

(c) Unearned premium reserves maintained pursuant to NRS 692A.160 or 692A.170.

(d) Fidelity bonds maintained by the title agent or title insurer.

(e) Other bonds or policies of insurance maintained by the title agent or title insurer covering liability for economic losses to customers caused by the title agent or title insurer.

Sec. 59. NRS 692B.070 is hereby amended to read as follows:

692B.070 1. A written application for any permit required under NRS 692B.040 must be filed with the Commissioner. The application must include or be accompanied by:

(a) The name, type and purposes of the insurer, corporation, syndicate, association, firm or organization formed or proposed to be formed or financed;

(b) On forms furnished by the Commissioner, for each person associated or to be associated as incorporator, director, promoter, manager or in other similar capacity in the enterprise, or in the formation of the proposed insurer, corporation, syndicate, association, firm or organization, or in the proposed financing:

(1) The person's name, residential address and qualifications; ***and***

(2) The person's business background and experience for the preceding 10 years; ~~[and~~

~~(3) A complete set of the person's fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~**]**

(c) A full disclosure of the terms of all pertinent understandings and agreements existing or proposed among any persons or entities so associated or to be associated, and a copy of each such agreement;

(d) Executed quadruplicate originals of the articles of incorporation of a proposed domestic stock or mutual insurer;

(e) The original and one copy of the proposed bylaws of a proposed domestic stock or mutual insurer;

(f) The plan according to which solicitations are to be made and a reasonably detailed estimate of all organization and sales expenses to be incurred in the proposed organization and offering;

(g) A copy of any security, receipt or certificate proposed to be offered, and a copy of any proposed subscription agreement or application therefor;

(h) A copy of any prospectus, offering circular, advertising or sales literature or material proposed to be used;

(i) A copy of the proposed form of any escrow agreement required;

(j) A copy of:

(1) The articles of incorporation of any corporation, other than a proposed domestic insurer, proposing to offer its securities, certified by the public officer having custody of the original thereof;

(2) Any syndicate, association, firm, organization or other similar agreement, by whatever name called, if funds for any of the purposes referred to in subsection 1 of NRS 692B.040 are to be secured through the sale of any security, interest or right in or relative to such syndicate, association, firm or organization; and

(3) If the insurer is, or is to be, a reciprocal insurer, the power of attorney and of other agreements existing or proposed affecting subscribers, investors, the attorney-in-fact or the insurer;

(k) If the applicant is a natural person, the statement required pursuant to NRS 692B.193; and

(l) Such additional pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by a deposit of the fees required under NRS 680B.010 for the filing of the application and for issuance of the permit, if granted.

3. If the applicant is a natural person, the application must include the social security number of the applicant.

4. In lieu of a special filing thereof of information required by subsection 1, the Commissioner may accept a copy of any pertinent filing made with the Securities and Exchange Commission relative to the same offering.

5. Each person identified in paragraph (b) of subsection 1 who is a resident of this State must, as part of his or her application and at the person's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the person's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the person's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the person were taken and directly forwarded electronically or by another means to the Central Repository and that the person has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the person's background and to such other law enforcement agencies as the Commissioner deems necessary.

6. The Commissioner may:

(a) Unless the person's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 5, submit those fingerprints to the Central Repository for submission to the Federal

Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the person's background as the Commissioner deems necessary.

Sec. 60. NRS 692B.190 is hereby amended to read as follows:

692B.190 1. No person may in this State solicit subscription to or purchase of any security covered by a solicitation permit issued under this chapter, unless then licensed therefor by the Commissioner.

2. Such a license may be issued only to natural persons, and the Commissioner shall not license any person found by the Commissioner to be:

(a) Dishonest or untrustworthy;

(b) Financially irresponsible;

(c) Of unfavorable personal or business history or reputation; or

(d) For any other cause, reasonably unsuited for fulfillment of the responsibilities of such a licensee.

3. The applicant for such a license must file a written application therefor with the Commissioner, on forms and containing inquiries as designated and required by the Commissioner. The application must include or be accompanied by:

(a) The social security number of the applicant;

(b) An endorsement by the holder of the permit under which the securities are proposed to be sold; ***and***

(c) ~~[A complete set of the fingerprints of the applicant on forms furnished by the Commissioner; and~~

~~(d)]~~ The application fee specified in NRS 680B.010.

4. The Commissioner ~~[:~~

~~(a) May forward the complete set of fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(b) Shall]~~ ***shall*** promptly cause an investigation to be made of the identity and qualifications of the applicant.

5. The license, if issued, must be for the period of the permit, and must automatically be extended if the permit is extended.

6. The Commissioner shall revoke the license if at any time after issuance the Commissioner has found that the license was obtained through misrepresentation or concealment of facts, or that the licensee is no longer qualified therefor, or that the licensee has misrepresented the securities offered, or has otherwise conducted himself or herself in or with respect to transactions under the license in a manner injurious to the permit holder or to subscribers or prospects or the public.

7. This section does not apply to securities broker-dealers registered as such under the Securities Exchange Act of 1934, or with respect to securities

the sale of which is underwritten, other than on a best efforts basis, by such a broker-dealer.

8. With respect to solicitation of subscriptions to or purchase of securities covered by a solicitation permit issued by the Commissioner, the license required by this section is in lieu of a license or permit otherwise required of the solicitor under any other law of this State.

9. An applicant who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

10. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 9, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 61. NRS 692C.370 is hereby amended to read as follows:

692C.370 For the purposes of this chapter, in determining whether or not an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors among others must be considered:

1. The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, ***operating results,*** insurance in force and other appropriate criteria.

2. The extent to which the insurer's business is diversified among the several lines of insurance.

3. The number and size of risks insured in each line of business.

4. The extent of the geographical dispersion of the insurer's insured risks.

5. The nature and extent of the insurer's reinsurance program.

6. The quality, diversification and liquidity of the insurer's investment portfolio.

7. The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.

8. The surplus as regards policyholders maintained by other comparable insurers.

9. The adequacy of the insurer's reserves.

10. The quality and liquidity of investments in ***affiliates or*** subsidiaries made pursuant to NRS 692C.180 to 692C.250, inclusive. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the judgment of the Commissioner such investment so warrants.

11. The quality of the insurer's earnings and the extent to which the reported earnings of the insurer include extraordinary items. As used in this subsection, the term "extraordinary item" means a nonrecurring occurrence or event.

Sec. 62. (Deleted by amendment.)

Sec. 62.5. **NRS 694C.210 is hereby amended to read as follows:**

694C.210 A captive insurer must apply to the Commissioner for a license. The application must include:

1. A certified copy of the charter and bylaws of the captive insurer;

2. A pro forma financial statement for the captive insurer that has been prepared by a certified public accountant ~~[;]~~ ***or an actuary authorized by the Division to conduct business in this State;***

3. Any other statements or documents that the Commissioner requires to be filed with the application;

4. Evidence of:

(a) The amount and liquidity of its assets relative to the risks to be assumed by the captive insurer;

(b) The expertise, experience and character of the persons who will manage the captive insurer;

(c) The overall soundness of the plan of operation of the captive insurer; and

(d) The adequacy of the programs of the captive insurer providing for loss prevention by its parent or member organizations, as applicable; and

5. Such other information deemed to be relevant by the Commissioner in ascertaining whether the proposed captive insurer will be able to meet its policy obligations.

Sec. 63. NRS 694C.330 is hereby amended to read as follows:

694C.330 Except as otherwise provided in this section, a captive insurer shall pay dividends out of, or make any other distributions from, its capital or surplus, or both, in accordance with the provisions set forth in NRS ***692C.370,*** 693A.140, 693A.150 and 693A.160. A captive insurer shall not pay dividends out of, or make any other distribution with respect to, its capital or surplus, or both, in violation of this section unless the captive insurer has obtained the prior approval of the Commissioner to make such a payment or distribution.

Sec. 64. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before ~~[March 1]~~ ***June 30*** of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer shall file its report in the form required by NRS ~~[680A.265.]~~ ***680A.270.*** The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than ~~[60]~~ ***180*** days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

3. Any captive insurer failing, without just cause beyond the reasonable control of the captive insurer, to file its annual statement as required by subsection 1 shall pay a penalty of $100 for each day the captive insurer fails to file the report, but not to exceed an aggregate

amount of $3,000, to be recovered in the name of the State of Nevada by the Attorney General.

4. Any director, officer, agent or employee of a captive insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement which is false, is guilty of a gross misdemeanor.

Sec. 64.5. **NRS 694C.410 is hereby amended to read as follows:**

694C.410 1. Except as otherwise provided in this section, at least once every 3 years, and at such other times as the Commissioner determines necessary, the Commissioner, or a designee of the Commissioner, shall visit each captive insurer and thoroughly inspect and examine the affairs of the captive insurer to ascertain:

(a) The financial condition of the captive insurer;

(b) The ability of the captive insurer to fulfill its obligations; and

(c) Whether the captive insurer has complied with the provisions of this chapter and the regulations adopted pursuant thereto.

2. Upon the application of a captive insurer, the Commissioner may conduct the visits required pursuant to subsection 1 every 5 years if the captive insurer conducts comprehensive annual audits:

(a) The scope of which is satisfactory to the Commissioner; and

(b) Which are conducted by an independent auditor appointed by the Commissioner.

3. ***The provisions of subsections 1 and 2 do not apply to a pure captive insurer. The Commissioner may conduct an examination of a pure captive insurer at any reasonable time to ascertain:***

(a) The financial condition of the pure captive insurer;

(b) The ability of the pure captive insurer to fulfill its obligations; and

(c) Whether the pure captive insurer has complied with the provisions of this chapter and the regulations adopted pursuant thereto.

4. The Commissioner may contract to obtain legal, financial and examination services from outside the Division to conduct the examination and make recommendations to the Commissioner. The cost of the examination must be paid to the Commissioner by the captive insurer.

~~[4.]~~ ***5.*** The provisions of NRS 679B.230 to 679B.287, inclusive, apply to examinations conducted pursuant to this section.

Sec. 65. NRS 695B.380 is hereby amended to read as follows:

695B.380 1. Except as otherwise provided in subsection 4, each insurer that issues a contract for hospital or medical services in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a contract for hospital or medical services issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a contract specified in subsection 1 shall, if the contract provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 65.5. ~~[NRS 695C.180 is hereby amended to read as follows:~~

~~695C.180 1. [No] *Except as otherwise provided in subsection 3, no* schedule of charges for enrollee coverage for health care services or amendment thereto may be used in conjunction with any health care plan until a copy of [such] *the* schedule or amendment [thereto] has been filed with and approved by the Commissioner.~~

~~2. Such charges may be established in accordance with actuarial principles for various categories of enrollees. [However the] *The* charges [shall] *must* not be excessive, inadequate [nor] *or* unfairly discriminatory. A certification by a qualified actuary to the adequacy of the charges [shall] *must* accompany the filing along with adequate supporting information.~~

~~*3. The provisions of this section do not apply to health insurance coverage offered through a group health plan maintained by a large employer. As used in this subsection, "large employer" has the meaning ascribed to it in 42 U.S.C. § 18024(b)(1).]*~~ **(Deleted by amendment.)**

Sec. 66. NRS 695C.260 is hereby amended to read as follows:

695C.260 Each health maintenance organization shall establish:

1. A system for resolving complaints which complies with the provisions of NRS 695G.200 to 695G.230, inclusive; and

2. A system for conducting external reviews of ~~[final]~~ adverse determinations that complies with the provisions of NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[.]~~ ***, of this act.***

Sec. 67. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080; or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of ~~[~~final~~]~~ adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[~~,~~]~~ ***, of this act;***

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 68. NRS 695E.110 is hereby amended to read as follows:

695E.110 "Risk retention group" means any corporation or association with limited liability that is formed under the laws of any state, Bermuda or the Cayman Islands:

1. Whose primary activity consists of assuming and spreading all or any portion of the exposure of its ***corporation or association*** members to liability;

2. Which is organized primarily to conduct the activity described in subsection 1;

3. Which:

(a) Is chartered and licensed as a liability insurer and authorized to transact insurance under the laws of any state; or

(b) Before January 1, 1985, was chartered or licensed and authorized to transact insurance under the laws of Bermuda or the Cayman Islands and, before that date, had certified to the Commissioner of Insurance of at least one state that it satisfied the state's requirements for capitalization, except that such a group is considered to be a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability;

4. Which does not exclude any person from membership in the group solely to provide for members of the group a competitive advantage over an excluded person;

5. Which has as its:

(a) ~~[~~Members~~]~~ ***Owners*** only persons who ~~[~~have an ownership interest in the group and who are provided insurance by~~]~~ ***comprise the membership of*** the risk retention group ~~[:]~~ ***and who are provided insurance by the risk retention group;*** or

(b) Sole owner an organization which has as its:

(1) Members only persons who comprise the membership of the risk retention group; and

(2) Owners only persons who comprise the membership of the risk retention group and who are provided insurance by the group;

6. Whose members are engaged in businesses or activities similar or related with respect to the liability to which they are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations;

7. Whose activities do not include the provision of insurance other than:

(a) Liability insurance for assuming and spreading all or any portion of the liability of the members of the group; and

(b) Reinsurance with respect to the liability of any other risk retention group, or any member of such a group, that is engaged in a business or activity such that the other group or member meets the requirements of subsection 6 for membership in the risk retention group that provides reinsurance; and

8. The name of which includes the phrase "risk retention group."

Sec. 69. NRS 695F.230 is hereby amended to read as follows:

695F.230 1. Each prepaid limited health service organization shall establish a system for the resolution of written complaints submitted by enrollees and providers.

2. The provisions of subsection 1 do not prohibit an enrollee or provider from filing a complaint with the Commissioner or limit the Commissioner's authority to investigate such a complaint.

3. Each prepaid limited health service organization that issues any evidence of coverage that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an enrollee or subscriber concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 70. Chapter 695G of NRS is hereby amended by adding thereto the provisions set forth as sections 71 to 112, inclusive, of this act.

Sec. 71. (Deleted by amendment.)

Sec. 72. (Deleted by amendment.)

Sec. 73. (Deleted by amendment.)

Sec. 74. (Deleted by amendment.)

Sec. 75. (Deleted by amendment.)

Sec. 76. (Deleted by amendment.)

Sec. 77. (Deleted by amendment.)

Sec. 78. (Deleted by amendment.)

Sec. 79. *"Benefits" means those health care services to which a covered person is entitled under the terms of a health benefit plan.*

Sec. 80. *"Covered person" means a policyholder, subscriber, enrollee or other person participating in a health benefit plan.*

Sec. 81. (Deleted by amendment.)

Sec. 82. (Deleted by amendment.)

Sec. 83. (Deleted by amendment.)

Sec. 84. (Deleted by amendment.)

Sec. 85. (Deleted by amendment.)

Sec. 86. (Deleted by amendment.)

Sec. 87. (Deleted by amendment.)

Sec. 88. *"Health benefit plan" means a policy, contract, certificate or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.*

Sec. 89. (Deleted by amendment.)

Sec. 90. (Deleted by amendment.)

Sec. 91. *"Health care services" means services for the diagnosis, prevention, treatment, care or relief of a health condition, illness, injury or disease.*

Sec. 92. *"Health carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.*

Sec. 93. (Deleted by amendment.)

Sec. 94. *"Medical or scientific evidence" means evidence found in the following sources:*

1. Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

2. Peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia and other medical literature that meet the criteria of the National Library of Medicine of the National Institutes of Health for indexing in Index Medicus (MEDLINE) and Elsevier for indexing in Excerpta Medica (EMBASE);

3. Medical journals recognized by the Secretary of Health and Human Services pursuant to section 1861(t)(2) of the Social Security Act, 42 U.S.C. § 1395x;

4. The following standard reference compendia:

(a) AHFS Drug Information published by the American Society of Health-System Pharmacists;

(b) Drug Facts and Comparisons published by Wolter Kluwers Health;

(c) Accepted Dental Therapeutics published by the American Dental Association; and

(d) The United States Pharmacopoeia's Drug Quality and Information Program;

5. Findings, studies or research conducted by or under the auspices of the Federal Government and nationally recognized federal research institutes, including, without limitation:

(a) The Agency for Healthcare Research and Quality;

(b) The National Institutes of Health;

(c) The National Cancer Institute;

(d) The National Academy of Sciences of the National Academies;

(e) The Centers for Medicare and Medicaid Services;

(f) The Food and Drug Administration; and

(g) Any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health care services; or

6. Any other source of medical or scientific evidence that is comparable to the sources listed in subsections 1 to 5, inclusive.

Sec. 95. (Deleted by amendment.)

Sec. 96. (Deleted by amendment.)

Sec. 97. (Deleted by amendment.)

Sec. 98. (Deleted by amendment.)

Sec. 99. (Deleted by amendment.)

Sec. 100. (Deleted by amendment.)

Sec. 101. ***"Utilization review organization" means an entity designated by a health carrier to conduct utilization reviews.***

Sec. 102. ***1. Except as otherwise provided in subsection 2, the provisions of NRS 695G.200 to 695G.310, inclusive, and sections 102 to 112, inclusive, of this act apply to all health carriers.***

2. The provisions of subsection 1 do not apply to:

(a) A policy or certificate that provides only coverage for:

(1) A specified disease or accident;

(2) Accidents;

(3) Credit dental;

(4) Disability income;

(5) Hospital indemnity;

(6) Long-term care insurance;

(7) Vision care; or

(8) Any other limited supplemental benefit;

(b) A Medicare supplement policy of insurance, as defined in regulations adopted by the Commissioner;

(c) Coverage under a plan through Medicare, Medicaid or the Federal Employees Health Benefits Program, FEHBP, 5 U.S.C. §§ 8901 et seq.;

(d) Any coverage issued under the Civilian Health and Medical Program of the Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq., and any coverage issued as supplemental to that coverage;

(e) Any coverage issued as supplemental to liability insurance;

(f) Workers' compensation or similar insurance;

(g) Automobile medical payment insurance; or

(h) Any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

Sec. 103. *1. A health carrier shall notify the covered person in writing of the covered person's right to request an external review to be conducted pursuant to NRS 695G.241 to 695G.310, inclusive, and sections 102 to 112, inclusive, of this act and include the appropriate statements and information set forth in subsection 2 at the same time the health carrier sends written notice of an adverse determination upon completion of the health carrier's utilization review process set forth in NRS 683A.375 to 683A.379, inclusive, and the regulations adopted pursuant thereto.*

2. As part of the written notice required pursuant to subsection 1, a health carrier shall include the following, or substantially equivalent, language:

We have denied your request for the provision of or payment for a health care service or course of treatment. You may have the right to have our decision reviewed by health care professionals who have no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment you requested by submitting a request for external review to the Office for Consumer Health Assistance.

3. The Commissioner may prescribe by regulation the form and content of the notice required pursuant to this section.

4. The health carrier shall include in the notice required pursuant to subsection 1 a statement informing the covered person that:

(a) If the covered person has a medical condition where the timeframe for completion of an expedited review of a grievance involving an adverse determination set forth in NRS 695G.200 to 695G.230, inclusive, would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the

covered person or the covered person's authorized representative may, at the same time the covered person or the covered person's authorized representative files a request for an expedited review of a grievance involving an adverse determination as set forth in NRS 695G.210, file a request for an expedited external review to be conducted pursuant to NRS 695G.271 and section 107 of this act if the adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational and the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment that is the subject of the adverse determination would be significantly less effective if not promptly initiated, and the independent review organization assigned to conduct the expedited external review will determine whether the covered person will be required to complete the expedited review of the grievance before conducting the expedited external review; and

(b) The covered person or the covered person's authorized representative may file a grievance under the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive, but if the health carrier has not issued a written decision to the covered person or the covered person's authorized representative within 30 days after the date on which the covered person or the covered person's authorized representative filed the grievance with the health carrier and the covered person or the covered person's authorized representative has not requested or agreed to a delay, the covered person or the covered person's authorized representative may file a request for external review pursuant to NRS 695G.251 and shall be considered to have exhausted the health carrier's internal grievance process.

5. In addition to the information required to be provided pursuant to subsection 1, the health carrier shall include a copy of the description of both the standard and expedited external review procedures the health carrier is required to provide pursuant to section 112 of this act, highlighting the provisions in the external review procedures that give the covered person or the covered person's authorized representative the opportunity to submit additional information and including any forms used to process an external review.

6. As part of any forms provided pursuant to subsection 3, the health carrier shall include an authorization form, or other document approved by the Commissioner that complies with the requirements of 45 C.F.R. § 164.508, by which the covered person, for purposes of conducting an external review, authorizes the health carrier and the covered person's treating health care provider to disclose protected health information,

including medical records, concerning the covered person that are pertinent to the external review.

7. As used in this section, "protected health information" has the meaning ascribed to it in 45 C.F.R. § 160.103.

Sec. 104. ***1. Except for a request for an expedited external review as set forth in NRS 695G.271 or section 107 of this act, all requests for external review must be made in writing to the Office for Consumer Health Assistance.***

2. The Commissioner may prescribe by regulation the form and content of requests for external review required to be submitted pursuant to this section.

3. A covered person or the covered person's authorized representative may submit a request for an external review of an adverse determination.

Sec. 105. (Deleted by amendment.)

Sec. 106. (Deleted by amendment.)

Sec. 107. ***1. Within 4 months after receipt of a notice of an adverse determination pursuant to section 103 of this act that involves a denial of coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational, a covered person or the covered person's authorized representative may file a request for external review with the Office for Consumer Health Assistance pursuant to this section.***

2. A covered person or the covered person's authorized representative may make an oral request for an expedited external review of the adverse determination pursuant to section 103 of this act that involves a denial of coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational if the covered person's treating physician certifies, in writing, that the recommended or requested health care service or treatment that is the subject of the request would be significantly less effective if not promptly initiated.

3. Upon receipt of a request for an expedited external review pursuant to subsection 2, the Office for Consumer Health Assistance shall immediately notify the health carrier.

4. Immediately upon notice of a request for an expedited external review pursuant to subsection 2, the health carrier shall determine whether the request meets the requirements for review set forth in subsection 12. The health carrier shall immediately notify the Office for Consumer Health Assistance and the covered person and, if applicable, the covered person's authorized representative, of its determination regarding eligibility.

5. The Commissioner may specify the form for the notice of initial determination pursuant to subsection 4 and any supporting information to be included in the notice.

6. The notice of initial determination required by subsection 4 must include a statement that a health carrier's initial determination that a request which is ineligible for external review may be appealed to the Office for Consumer Health Assistance.

7. The Office for Consumer Health Assistance may determine that a request for an expedited external review is eligible for external review pursuant to subsection 12 and require that it be referred for expedited external review notwithstanding a health carrier's initial determination that the request is ineligible.

8. In making a determination pursuant to subsection 7, the decision of the Office for Consumer Health Assistance must be made in accordance with the terms of the covered person's health benefit plan and is subject to all applicable provisions of the external review process.

9. Upon receipt of the notice that the request for expedited external review meets the requirements for review, the Office for Consumer Health Assistance shall immediately assign an independent review organization to conduct the expedited external review from the list of approved independent review organizations compiled and maintained by the Commissioner pursuant to section 8 of this act and notify the health carrier of the name of the assigned independent review organization.

10. Upon receipt of the notice pursuant to subsection 9, the health carrier or utilization review organization shall provide or transmit any documents and information considered in making the adverse determination to the assigned independent review organization electronically or by telephone or facsimile, or any other available expeditious method.

11. Except as otherwise provided in subsection 3, within 1 business day after receipt of a request for external review pursuant to subsection 1, the Office for Consumer Health Assistance shall notify the health carrier.

12. Within 5 business days after receipt of the notice sent pursuant to subsection 11, the health carrier shall conduct and complete a preliminary review of the request to determine whether:

(a) The person is or was a covered person in the health benefit plan at the time the health care service or treatment was recommended or requested or, in the case of a retrospective review, was a covered person in the health benefit plan at the time the health care service or treatment was provided;

(b) The recommended or requested health care service or treatment that is the subject of the adverse determination:

(1) Would be a covered benefit under the covered person's health benefit plan but for the health carrier's determination that the health care service or treatment is experimental or investigational for a particular medical condition; and

(2) Is not explicitly listed as an excluded benefit under the covered person's health benefit plan;

(c) The covered person's treating physician has certified that one of the following situations is applicable:

(1) Standard health care services or treatments have not been effective in improving the condition of the covered person;

(2) Standard health care services or treatments are not medically appropriate for the covered person; or

(3) There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the recommended or requested health care service or treatment described in paragraph (d);

(d) The covered person's treating physician:

(1) Has recommended a health care service or treatment that the physician certifies, in writing, is likely to be more beneficial to the covered person, in the physician's opinion, than any available standard health care services or treatments; or

(2) Who is a licensed, board certified or board eligible physician qualified to practice in the area of medicine appropriate to treat the covered person's condition, has certified in writing that scientifically valid studies using accepted protocols demonstrate that the health care service or treatment requested by the covered person that is the subject of the adverse determination is likely to be more beneficial to the covered person than any available standard health care services or treatments;

(e) The covered person has exhausted the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive, unless the covered person is not required to exhaust the health carrier's internal grievance process; and

(f) The covered person has provided all the information and forms required by the Office for Consumer Health Assistance to process an external review, including the release form provided pursuant to subsection 6 of section 103 of this act.

13. Within 1 business day after completion of the preliminary review, the health carrier shall notify the Office for Consumer Health Assistance and the covered person, and, if applicable, the covered person's authorized representative, in writing, whether the request is:

(a) Complete;

(b) Eligible for external review;

(c) Not complete, in which case the health carrier shall include in the notice the information or materials that are needed to make the request complete; or

(d) Not eligible for external review, in which case the health carrier shall include in the notice the reasons for its ineligibility.

14. The Commissioner may specify the form for the notice of initial determination pursuant to subsection 13 and any supporting information to be included in the notice.

15. The notice of initial determination must include a statement informing the covered person and, if applicable, the covered person's authorized representative that a health carrier's initial determination that a request which is ineligible for external review may be appealed to the Office for Consumer Health Assistance.

16. The Office for Consumer Health Assistance may determine that a request is eligible for external review pursuant to subsection 12 and require that it be referred for external review notwithstanding a health carrier's initial determination that the request is ineligible.

17. In making a determination pursuant to subsection 16, the decision of the Office for Consumer Health Assistance must be made in accordance with the terms of the covered person's health benefit plan and is subject to all applicable provisions of the external review process.

18. When a health carrier determines that a request is eligible for external review pursuant to subsection 12, the health carrier shall notify the Office for Consumer Health Assistance and the covered person and, if applicable, the covered person's authorized representative.

19. Within 1 business day after receipt of the notice from the health carrier that the external review request is eligible for external review pursuant to subsection 18, the Office for Consumer Health Assistance shall:

(a) Assign an independent review organization from the list of approved independent review organizations compiled and maintained by the Commissioner pursuant to section 8 of this act to conduct the external review;

(b) Notify the health carrier of the name of the assigned independent review organization; and

(c) Notify in writing the covered person and, if applicable, the covered person's authorized representative that the request is eligible for external review and provide the name of the assigned independent review organization.

20. The Office for Consumer Health Assistance shall include in the notice provided to the covered person and, if applicable, the covered person's authorized representative pursuant to subsection 19 a statement

that the covered person or the covered person's authorized representative may submit in writing to the assigned independent review organization within 5 business days after receipt of the notice provided pursuant to subsection 19 additional information that the independent review organization shall consider when conducting the external review. The independent review organization may accept and consider additional information submitted after the 5 business days have elapsed.

21. Within 1 business day after receipt of the notice of assignment to conduct the external review pursuant to subsection 19, the assigned independent review organization shall:

(a) Select one or more clinical reviewers to conduct the external review, as it determines is appropriate; and

(b) Based on the opinion of the clinical reviewer, or opinions if more than one clinical reviewer has been selected to conduct the external review, make a decision to uphold or reverse the adverse determination.

22. In selecting clinical reviewers pursuant to paragraph (a) of subsection 21, the assigned independent review organization shall select health care professionals who meet the minimum qualifications described in section 9 of this act and through clinical experience in the past 3 years, are experts in the treatment of the covered person's condition and knowledgeable about the recommended or requested health care service or treatment.

23. The covered person, the covered person's authorized representative, if applicable, and the health carrier may not choose or control the choice of the health care professionals to be selected to conduct the external review.

24. In accordance with subsections 37 to 41, inclusive, each clinical reviewer shall provide a written opinion to the assigned independent review organization regarding whether the recommended or requested health care service or treatment should be covered.

25. In reaching an opinion, clinical reviewers are not bound by any decisions or conclusions reached during the health carrier's utilization review process as set forth in NRS 683A.375 to 683A.379, inclusive, or the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive.

26. Within 5 business days after receipt of the notice pursuant to subsection 19, the health carrier or utilization review organization shall provide to the assigned independent review organization any documents and information considered in making the adverse determination.

27. Except as otherwise provided in subsection 28, failure by the health carrier or utilization review organization to provide the documents and

information within the time specified in subsection 26 must not delay the conduct of the external review.

28. If the health carrier or utilization review organization fails to provide the documents and information within the time specified in subsection 26, the assigned independent review organization may terminate the external review and make a decision to reverse the adverse determination.

29. If the independent review organization elects to terminate the external review and reverse the adverse determination pursuant to subsection 28, the independent review organization shall immediately notify the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance.

30. Each clinical reviewer selected pursuant to subsection 21 shall review all the information and documents received pursuant to subsections 20 and 26.

31. The assigned independent review organization shall forward any information submitted by the covered person or the covered person's authorized representative pursuant to subsection 20 to the health carrier within 1 business day after receipt of the information.

32. Upon receipt of the information required to be forwarded pursuant to subsection 31, the health carrier may reconsider the adverse determination that is the subject of the external review.

33. Reconsideration by the health carrier of its adverse determination pursuant to subsection 32 must not delay or terminate the external review.

34. Except as otherwise provided in subsection 28, the external review may only be terminated before completion if the health carrier decides, upon completion of its reconsideration, to reverse its adverse determination and provide coverage or payment for the recommended or requested health care service or treatment that is the subject of the adverse determination.

35. If the health carrier reverses its adverse determination pursuant to subsection 28, the health carrier shall immediately notify the covered person, the covered person's authorized representative, if applicable, the assigned independent review organization and the Office for Consumer Health Assistance in writing of its decision.

36. The assigned independent review organization shall terminate the external review upon receipt of the notice from the health carrier pursuant to subsection 35.

37. Except as otherwise provided in subsection 39, within 20 days after being selected in accordance with subsection 21 to conduct the external review, each clinical reviewer shall provide an opinion to the assigned independent review organization pursuant to subsection 41 regarding

whether the recommended or requested health care service or treatment should be covered.

38. Except for an opinion provided pursuant to subsection 39, each clinical reviewer's opinion must be in writing and include the following:

(a) A description of the covered person's medical condition;

(b) A description of the indicators relevant to determine if there is sufficient evidence to demonstrate that the recommended or requested health care service or treatment is more likely to be beneficial to the covered person than any available standard health care services or treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments;

(c) A description and analysis of any medical or scientific evidence considered in reaching the opinion;

(d) A description and analysis of any evidence-based standards used as a basis for the opinion; and

(e) Information concerning whether the reviewer's rationale for the opinion is based on the provisions of subsection 41.

39. For an expedited external review, each clinical reviewer shall provide an opinion orally or in writing to the assigned independent review organization as expeditiously as the covered person's medical condition or circumstances requires, but in no event not more than 5 calendar days after being selected in accordance with subsection 21.

40. If the opinion provided pursuant to subsection 39 was not in writing, within 48 hours after providing that notice, the clinical reviewer shall provide written confirmation of the opinion to the assigned independent review organization and include the information required pursuant to subsection 38.

41. In addition to the documents and information provided pursuant to subsections 10 and 26, each clinical reviewer, to the extent the information or documents are available and the reviewer considers them appropriate, shall consider the following in reaching an opinion:

(a) The covered person's medical records;

(b) The attending health care professional's recommendation;

(c) Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, the covered person's authorized representative or the covered person's treating provider;

(d) The terms of coverage under the covered person's health benefit plan with the health carrier to ensure that, but for the health carrier's determination that the recommended or requested health care service or treatment that is the subject of the opinion is experimental or

investigational, the reviewer's opinion is not contrary to the terms of coverage under the health benefit plan; and

(e) Whether:

(1) The recommended or requested health care service or treatment has been approved by the Food and Drug Administration, if applicable, for the condition; or

(2) Medical or scientific evidence or evidence-based standards demonstrate that the expected benefits of the recommended or requested health care service or treatment is more likely to be beneficial to the covered person than any available standard health care services or treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments.

42. Except as otherwise provided in subsection 43, within 20 days after receipt of the opinion of each clinical reviewer pursuant to subsection 41, the assigned independent review organization, in accordance with subsection 45 or 46, shall make a decision and provide written notice of the decision to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance and include the information required pursuant to subsection 50.

43. For an expedited external review, within 48 hours after receipt of the opinion of each clinical reviewer pursuant to subsection 41, the assigned independent review organization, in accordance with subsection 45 or 46, shall make a decision and provide notice of the decision orally or in writing to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance.

44. If the notice provided pursuant to subsection 43 was not in writing, within 48 hours after providing that notice, the assigned independent review organization shall provide written confirmation of the decision to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance and include the information required pursuant to subsection 50.

45. If a majority of the clinical reviewers recommend that the recommended or requested health care service or treatment should be covered, the independent review organization shall make a decision to reverse the health carrier's adverse determination.

46. If a majority of the clinical reviewers recommend that the recommended or requested health care service or treatment should not be covered, the independent review organization shall make a decision to uphold the health carrier's adverse determination.

47. If the clinical reviewers are evenly split as to whether the recommended or requested health care service or treatment should be covered, the independent review organization shall obtain the opinion of an additional clinical reviewer in order for the independent review organization to make a decision based on the opinions of a majority of the clinical reviewers pursuant to subsection 45 or 46.

48. The additional clinical reviewer selected pursuant to subsection 47 shall use the same information to reach an opinion as the clinical reviewers who have already submitted their opinions pursuant to subsection 41.

49. The selection of an additional clinical reviewer pursuant to subsection 47 must not extend the time within which the assigned independent review organization is required to make a decision based on the opinions of the clinical reviewers pursuant to subsection 42.

50. The independent review organization shall include in the notice provided pursuant to subsection 42 or 44:

(a) A general description of the reason for the request for external review;

(b) The written opinion of each clinical reviewer, including the recommendation of each clinical reviewer as to whether the recommended or requested health care service or treatment should be covered and the rationale for the reviewer's recommendation;

(c) The date the independent review organization was assigned by the Office for Consumer Health Assistance to conduct the external review;

(d) The date on which the external review was conducted;

(e) The date of the decision;

(f) The principal reason or reasons for the decision; and

(g) The rationale for the decision.

51. Upon receipt of a notice of a decision pursuant to subsection 42 or 44 reversing the adverse determination, the health carrier shall immediately approve coverage of the recommended or requested health care service or treatment that was the subject of the adverse determination.

52. The assignment by the Office for Consumer Health Assistance of an approved independent review organization to conduct an external review in accordance with this section must be done on a random basis among those approved independent review organizations qualified to conduct the particular external review based on the nature of the health care service or treatment that is the subject of the adverse determination and other circumstances, including concerns regarding conflicts of interest pursuant to subsection 4 of section 9 of this act.

53. As used in this section:

(a) "Best evidence" means evidence based on:

(1) Randomized clinical trials;

(2) If randomized clinical trials are not available, cohort studies or case-control studies;

(3) If the methods described in subparagraphs (1) and (2) are not available, case series; or

(4) If the methods described in subparagraphs (1), (2) and (3) are not available, expert opinion.

(b) "Evidence-based standard" means the conscientious, explicit and judicious use of the current best evidence based on the overall systematic review of research in making decisions about the care of an individual patient.

(c) "Randomized clinical trial" means a controlled, prospective study of patients who have been randomized into an experimental group and a control group at the beginning of the study with only the experimental group of patients receiving a specific intervention, which includes study of the groups for variables and anticipated outcomes over time.

Sec. 108. (Deleted by amendment.)

Sec. 109. (Deleted by amendment.)

Sec. 110. ***1. An independent review organization assigned pursuant to NRS 695G.251 or 695G.271 or section 107 of this act to conduct an external review shall maintain written records, aggregated for each state and for each health carrier, on all requests for which it conducted an external review during a calendar year and, upon request, submit a report to the Office for Consumer Health Assistance in a format specified by the Commissioner.***

2. The report must include, aggregated for each state and for each health carrier:

(a) The total number of requests for external review;

(b) The number of requests for external review resolved and, of those resolved, the number upholding the adverse determination and the number reversing the adverse determination;

(c) The average length of time for resolution;

(d) A summary of the types of coverages or cases for which an external review was sought;

(e) The number of external reviews that were terminated as the result of a reconsideration by the health carrier of its adverse determination after receipt of additional information from the covered person or the covered person's authorized representative pursuant to subsection 4 of NRS 695G.251 and subsection 32 of section 107 of this act; and

(f) Any other information the Office for Consumer Health Assistance may request or require.

3. An independent review organization shall retain the written records required pursuant to this section for at least 3 years.

4. Each health carrier shall maintain written records, aggregated for each state and for each type of health benefit plan offered by the health carrier, on all requests for external review for which the health carrier receives notice from the Office for Consumer Health Assistance and, upon request, submit a report to the Office for Consumer Health Assistance in a format specified by the Commissioner.

5. The report must include, aggregated for each state and for each type of health benefit plan:

(a) The total number of requests for external review;

(b) Of the total number of requests for external review, the number of requests determined to be eligible for external review; and

(c) Any other information the Office for Consumer Health Assistance may request or require.

6. A health carrier shall retain the written records required pursuant to this section for at least 3 years.

Sec. 111. (Deleted by amendment.)

Sec. 112. ***1. A health carrier shall include a description of the external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage or other evidence of coverage it provides to covered persons.***

2. The description required by subsection 1 must be in a format prescribed by the Commissioner.

3. The description required by subsection 1 must include a statement that informs the covered person of the right of the covered person to file a request for an external review of an adverse determination with the Office for Consumer Health Assistance. The statement may explain that external review is available when the adverse determination involves an issue of medical necessity, appropriateness, health care setting, level of care or effectiveness. The statement must include the telephone number and address of the Office for Consumer Health Assistance.

4. In addition to the requirements of subsection 3, the statement must inform the covered person that, when filing a request for an external review, the covered person will be required to authorize the release of any medical records of the covered person that may be required to be reviewed for the purpose of reaching a decision on the external review.

Sec. 113. NRS 695G.010 is hereby amended to read as follows:

695G.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~[695G.020]~~ ***695G.012*** to 695G.080, inclusive, ***and sections 71 to 101, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 114. NRS 695G.012 is hereby amended to read as follows:

695G.012 "Adverse determination" means a determination ~~[of a managed care organization to deny all or part of a service or procedure that is proposed or being provided to an insured on the basis that it is not medically necessary or appropriate or is experimental or investigational. The term does not include a determination of a managed care organization that such an allocation is not a covered benefit.]~~ ***by a health carrier or utilization review organization that an admission, availability of care, continued stay or other health care service that is a covered benefit has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the requested service or payment for the service is therefore denied, reduced or terminated.***

Sec. 115. NRS 695G.014 is hereby amended to read as follows:

695G.014 "Authorized representative" means ~~[a]~~ ***:***

1. A person ~~[who has obtained the consent of an insured]~~ ***to whom a covered person has given express written consent*** to represent ~~[him or her]~~ ***the covered person*** in an external review of ~~[a final]~~ ***an*** adverse determination conducted pursuant to NRS 695G.241 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act;***

2. A person authorized by law to provide substituted consent for a covered person; or

3. A family member of a covered person or the covered person's treating provider only when the covered person is unable to provide consent.

Sec. 116. NRS 695G.018 is hereby amended to read as follows:

695G.018 ~~["External]~~ ***"Independent*** review organization" means an ~~[organization]~~ ***entity*** that:

1. Conducts an ***independent*** external review of ~~[a final]~~ ***an*** adverse determination; and

2. Is certified by the Commissioner in accordance with ~~[NRS 683A.371.]~~ ***sections 8 and 9 of this act.***

Sec. 116.3. NRS 695G.070 is hereby amended to read as follows:

695G.070 "Provider of health care" means ~~[any]~~ ***:***

1. A physician ~~[, hospital]~~ or other ~~[person]~~ ***health care practitioner*** who is licensed or otherwise authorized in this State to furnish any health care service ~~[.]~~ ***; and***

2. An institution providing health care services or other setting in which health care services are provided, including, without limitation, a hospital, surgical center for ambulatory patients, facility for skilled nursing, residential facility for groups, laboratory and any other such licensed facility.

Sec. 116.7. NRS 695G.080 is hereby amended to read as follows:

695G.080 1. "Utilization review" means the various methods that may be used ~~[by a managed care organization]~~ to review the amount and appropriateness of the provision of a specific health care service ***.*** ~~[to an insured.]~~

2. The term does not include an external review of ~~[a final]~~ ***an*** adverse determination conducted pursuant to NRS 695G.241 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 117. (Deleted by amendment.)

Sec. 118. NRS 695G.230 is hereby amended to read as follows:

695G.230 1. After approval by the Commissioner, each ~~[managed care organization]~~ ***health carrier*** shall provide a written notice to an insured, in clear and comprehensible language that is understandable to an ordinary layperson, explaining the right of the insured to file a written complaint and to obtain an expedited review pursuant to NRS 695G.210. Such a notice must be provided to an insured:

(a) At the time the insured receives his or her certificate of coverage or evidence of coverage;

(b) Any time that the ~~[managed care organization]~~ ***health carrier*** denies coverage of a health care service or limits coverage of a health care service to an insured; and

(c) Any other time deemed necessary by the Commissioner.

2. If a ~~[managed care organization]~~ ***health carrier*** denies coverage of a health care service to an insured, including, without limitation, a health maintenance organization that denies a claim related to a health care plan pursuant to NRS 695C.185, it shall notify the insured in writing within 10 working days after it denies coverage of the health care service of:

(a) The reason for denying coverage of the service;

(b) The criteria by which the ~~[managed care organization]~~ ***health carrier*** or insurer determines whether to authorize or deny coverage of the health care service;

(c) The right of the insured to:

(1) File a written complaint and the procedure for filing such a complaint;

(2) Appeal ~~[a final]~~ ***an*** adverse determination pursuant to NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[.]~~ ***, of this act;***

(3) Receive an expedited external review of ~~[a final]~~ ***an*** adverse determination if the ~~[managed care organization]~~ ***health carrier*** receives proof from the insured's provider of health care that failure to proceed in an expedited manner may jeopardize the life or health of the insured, including

notification of the procedure for requesting the expedited external review; and

(4) Receive assistance from any person, including an attorney, for an external review of ~~[a final]~~ ***an*** adverse determination; and

(d) The telephone number of the Office for Consumer Health Assistance.

3. A written notice which is approved by the Commissioner shall be deemed to be in clear and comprehensible language that is understandable to an ordinary layperson.

Sec. 118.1. NRS 695G.241 is hereby amended to read as follows:

695G.241 ~~[1. For]~~ ***Except as otherwise required for an expedited external review pursuant to NRS 695G.271 or section 107 of this act, for*** the purposes of NRS 695G.200 to 695G.310, inclusive, ***and sections 102 to 112, inclusive, of this act,*** an adverse determination ~~[is final if the insured has exhausted all procedures set forth in the health care plan for reviewing the adverse determination within the managed care organization.~~

~~2. An adverse determination shall be deemed final for the purpose of submitting the adverse determination to an external review organization for]~~ ***may be subject to*** an external review:

~~[(a)]~~ ***1.*** If ~~[an insured]~~ ***a covered person*** exhausts all procedures set forth in the health care plan for reviewing the adverse determination within the ~~[managed care organization]~~ ***health carrier*** and the ~~[managed care organization]~~ ***health carrier*** fails to render a decision within the period required to render that decision set forth in the health care plan; or

~~[(b)]~~ ***2.*** If the ~~[managed care organization submits]~~ ***health carrier allows the covered person to submit*** the adverse determination to the ~~[external]~~ ***independent*** review organization without requiring the ~~[insured]~~ ***covered person*** to exhaust all procedures set forth in the health care plan for reviewing the adverse determination within the ~~[managed care organization.]~~ ***health carrier.***

Sec. 118.2. NRS 695G.251 is hereby amended to read as follows:

695G.251 1. If ~~[an insured]~~ ***a covered person*** or a physician of ~~[an insured]~~ ***a covered person*** receives notice of ~~[a final]~~ ***an*** adverse determination from a ~~[managed care organization]~~ ***health carrier*** concerning the ~~[insured, and if the insured is required to pay $500 or more for the health care services that are the subject of the final adverse determination, the insured,]~~ ***covered person, the covered person,*** the physician of the ~~[insured]~~ ***covered person*** or an authorized representative may, within ~~[60 days]~~ ***4 months*** after receiving notice of the ~~[final]~~ adverse determination, submit a request to the ~~[managed care organization]~~ ***Office for Consumer Health Assistance*** for an external review of the ~~[final]~~ adverse determination.

2. Within 5 days after receiving a request pursuant to subsection 1, the ~~[managed care organization]~~ ***Office for Consumer Health Assistance*** shall

notify the ~~[insured,]~~ ***covered person,*** the authorized representative or physician of the ~~[insured,]~~ ***covered person,*** the agent who performed utilization review for the ~~[managed care organization,]~~ ***health carrier,*** if any, and the ~~[Office for Consumer Health Assistance]~~ ***health carrier*** that the request has been filed with the ~~[managed care organization.]~~ ***Office for Consumer Health Assistance.***

3. As soon as practicable after receiving a ~~[notice]~~ ***request*** pursuant to subsection ~~[2,]~~ ***1,*** the Office for Consumer Health Assistance shall assign an ~~[external]~~ ***independent*** review organization from the list maintained pursuant to ~~[NRS 683A.371.]~~ ***section 8 of this act.*** Each assignment made pursuant to this subsection must be completed on a rotating basis.

4. Within 5 days after receiving notification from the Office for Consumer Health Assistance specifying the ~~[external]~~ ***independent*** review organization assigned pursuant to subsection 3, the ~~[managed care organization]~~ ***health carrier*** shall provide to the ~~[external]~~ ***independent*** review organization all documents and materials relating to the ~~[final]~~ adverse determination, including, without limitation:

(a) Any medical records of the insured relating to the external review;

(b) A copy of the provisions of the health ~~[care]~~ ***benefit*** plan upon which the ~~[final]~~ adverse determination was based;

(c) Any documents used by the ~~[managed care organization]~~ ***health carrier*** to make the ~~[final]~~ adverse determination;

(d) The reasons for the ~~[final]~~ adverse determination; and

(e) Insofar as practicable, a list that specifies each provider of health care who has provided health care to the ~~[insured]~~ ***covered person*** and the medical records of the provider of health care relating to the external review.

Sec. 118.3. NRS 695G.261 is hereby amended to read as follows:

695G.261 1. Except as otherwise provided in NRS 695G.271 ~~[,]~~ ***and section 107 of this act,*** upon receipt of a request for an external review pursuant to NRS 695G.251, the ~~[external]~~ ***independent*** review organization shall, within 5 days after receiving the request:

(a) Review the request and the documents and materials submitted pursuant to NRS 695G.251; and

(b) Notify the ~~[insured,]~~ ***covered person,*** the physician of the ~~[insured]~~ ***covered person*** and the ~~[managed care organization]~~ ***health carrier*** if any additional information is required to conduct a review of the ~~[final]~~ adverse determination. ***Such additional information must be provided within 5 days after receiving notice that the information is required to conduct a review of the adverse determination. The independent review organization shall forward to the health carrier, within 1 business day after receipt, any information received from a covered person or the physician of a covered person.***

2. Except as otherwise provided in NRS 695G.271 ~~[,]~~ ***and section 107 of this act,*** the ~~[external]~~ ***independent*** review organization shall approve, modify or reverse the ~~[final]~~ adverse determination within 15 days after it receives the information required to make that determination pursuant to this section. The ~~[external]~~ ***independent*** review organization shall submit a copy of its determination, including the reasons therefor, to:

(a) The ~~[insured;]~~ ***covered person;***

(b) The physician of the ~~[insured;]~~ ***covered person;***

(c) The authorized representative of the ~~[insured,]~~ ***covered person,*** if any; and

(d) The ***health carrier.***

Sec. 118.4. NRS 695G.271 is hereby amended to read as follows:

695G.271 1. ~~[A managed care organization]~~ ***The Office for Consumer Health Assistance*** shall approve or deny a request for an external review of ~~[a final]~~ ***an*** adverse determination in an expedited manner not later than 72 hours after it receives proof from the ~~[insured's]~~ provider of health care ***of the covered person*** that ~~[failure]~~ ***:***

(a) The adverse determination concerns an admission, availability of care, continued stay or health care service for which the covered person received emergency services but has not been discharged from the facility providing the services or care; or

(b) Failure to proceed in an expedited manner may jeopardize the life or health of the ~~[insured.]~~ ***covered person or the ability of the covered person to regain maximum function.***

2. If ~~[a managed care organization]~~ ***the Office for Consumer Health Assistance*** approves a request for an external review pursuant to subsection 1, the ~~[managed care organization]~~ ***Office for Consumer Health Assistance*** shall ~~[:~~

~~(a) In accordance with subsections 4 and 5,]~~ assign the request to an ~~[external]~~ ***independent*** review organization not later than 1 working day after approving the request ***.*** ~~[; and~~

~~(b) At the time of]~~ ***Each assignment made by the Office for Consumer Health Assistance pursuant to this section must be completed on a rotating basis.***

3. Within 24 hours after receiving notice of the Officer for Consumer Health Assistance assigning the request, ***the health carrier shall*** provide to the ~~[external]~~ ***independent*** review organization all documents and materials specified in subsection 4 of NRS 695G.251.

~~[3.]~~ ***4.*** An ~~[external]~~ ***independent*** review organization that is assigned to conduct an external review pursuant to subsection 2 shall, if it accepts the assignment:

(a) Complete its external review not later than ~~[2 working days]~~ ***48 hours*** after receiving the assignment, unless the ~~[insured]~~ ***covered person*** and the ~~[managed care organization]~~ ***health carrier*** agree to a longer period;

(b) Not later than ~~[1 working day]~~ ***24 hours*** after completing its external review, notify the ~~[insured,]~~ ***covered person,*** the physician of the ~~[insured,]~~ ***covered person,*** the authorized representative ***,*** ~~[of the insured,]~~ if any, and the ~~[managed care organization]~~ ***health carrier*** by telephone of its determination; and

(c) Not later than ~~[5 working days]~~ ***48 hours*** after completing its external review, submit a written decision of its external review to the ~~[insured,]~~ ***covered person,*** the physician of the ~~[insured,]~~ ***covered person,*** the authorized representative ***,*** ~~[of the insured,]~~ if any, and the ~~[managed care organization.~~

~~4. At least once each month, the Office for Consumer Health Assistance shall designate at least 2 external review organizations to conduct external reviews in an expedited manner pursuant to this section. As soon as practicable after designating an external review organization pursuant to this section, the Office for Consumer Health Assistance shall notify each managed care organization of the designation.~~

~~5. As soon as practicable after assigning an external review organization to conduct an external review pursuant to this section, the managed care organization shall notify the Office for Consumer Health Assistance of the assignment. Each assignment made by a managed care organization pursuant to this section must be completed on a rotating basis.]~~ ***health carrier.***

Sec. 118.5. NRS 695G.280 is hereby amended to read as follows:

695G.280 The decision of an ~~[external]~~ ***independent*** review organization concerning a request for an external review must be based on:

1. Documentary evidence, including any recommendation of the physician of the insured submitted pursuant to NRS 695G.251;

2. Medical ***or scientific*** evidence, including, without limitation:

(a) Professional standards of safety and effectiveness for diagnosis, care and treatment that are generally recognized in the United States;

(b) Any report published in literature that is peer-reviewed;

(c) Evidence-based medicine, including, without limitation, reports and guidelines that are published by professional organizations that are recognized nationally and that include supporting scientific data; and

(d) An opinion of an independent physician who, as determined by the ~~[external]~~ ***independent*** review organization, is an expert in the health specialty that is the subject of the external review; and

3. The terms and conditions for benefits set forth in the evidence of coverage issued to the insured by the ***health carrier.***

Sec. 118.6. NRS 695G.290 is hereby amended to read as follows:

695G.290 1. If the determination of an ~~[external]~~ ***independent*** review organization concerning an external review of ~~[a final]~~ ***an*** adverse determination is in favor of the ~~[insured,]~~ ***covered person,*** the determination is final, conclusive and binding upon the ~~[managed care organization.]~~ ***health carrier.***

2. An ~~[external]~~ ***independent*** review organization or any clinical peer who conducts or participates in an external review of ~~[a final]~~ ***an*** adverse determination for the ~~[external]~~ ***independent*** review organization is not liable in a civil action for damages relating to a determination made by the ~~[external]~~ ***independent*** review organization if the determination is made in good faith and without gross negligence.

3. The cost of conducting an external review of ~~[a final]~~ ***an*** adverse determination pursuant to NRS 695G.241 to 695G.310, inclusive, ***and sections 102 to 112, inclusive, of this act*** must be paid by the ~~[managed care organization]~~ ***health carrier*** that made the ~~[final]~~ adverse determination.

Sec. 118.7. NRS 695G.300 is hereby amended to read as follows:

695G.300 In lieu of resolving a complaint of ~~[an insured]~~ ***a covered person*** in accordance with a system for resolving complaints established pursuant to the provisions of NRS 695G.200, a ~~[managed care organization]~~ ***health carrier*** may:

1. Submit the complaint to an ~~[external]~~ ***independent*** review organization pursuant to the provisions of NRS 695G.241 to 695G.310, inclusive ~~[;]~~ ***, and sections 102 to 112, inclusive, of this act;*** or

2. If a federal law or regulation provides a procedure for submitting the complaint for resolution that the Commissioner determines is substantially similar to the procedure for submitting the complaint to an ~~[external]~~ ***independent*** review organization pursuant to NRS 695G.241 to 695G.310, inclusive, ***and sections 102 to 112, inclusive, of this act,*** submit the complaint for resolution in accordance with the federal law or regulation.

Sec. 118.8. NRS 695G.310 is hereby amended to read as follows:

695G.310 On or before December 31 of each year, each ~~[managed care organization]~~ ***health carrier*** shall file a written report with the Office for Consumer Health Assistance setting forth the total number of:

1. Requests for ***an*** external review ~~[that were received by the managed care organization]~~ ***of an adverse decision made by the health carrier which were granted by the Office for Consumer Health Assistance*** during the immediately preceding year; and

2. ~~[Final adverse]~~ ***Adverse*** determinations of the ~~[managed care organization]~~ ***health carrier*** that were:

(a) Upheld during the immediately preceding year.

(b) Reversed during the immediately preceding year.

Sec. 119. NRS 695H.090 is hereby amended to read as follows:

695H.090 1. An application for registration to engage in business as a medical discount plan must be submitted on a form prescribed by the Commissioner. The form must be signed by an officer or an authorized representative of the applicant. Except as otherwise provided in this section, the application must be accompanied by:

(a) A registration fee of $500 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

(b) A copy of the organizational documents of the applicant, if any.

(c) A list of names, addresses, positions of employment and biographical information of each person who is responsible for conducting the business activities of the medical discount plan of the applicant, including, but not limited to, all members of the board of directors, board of trustees, officers and managers. The list must set forth the extent and nature of any contracts or other agreements between any person who is responsible for conducting the business activities of the applicant and the medical discount plan, including disclosure of any possible conflicts of interest.

(d) A complete biographical statement, on a form prescribed by the Commissioner, describing the facilities, employees and services that will be offered by the applicant.

(e) A copy of all forms used for contracts between the applicant and networks of providers of health care regarding the provision of health care or medical services to members.

(f) A copy of the most recent financial statements of the applicant, audited by an independent certified public accountant.

(g) A description of the method of marketing proposed by the applicant.

(h) A description of the procedures for making a complaint to be established and maintained by the applicant.

(i) Any other information required by the Commissioner.

2. Each person who registers a medical discount plan must renew the registration ~~[annually]~~ ***on or*** before ~~[the registration expires.]~~ ***March 1 of each year.*** Except as otherwise provided in this section, an application to renew the registration must include:

(a) An annual renewal fee of $500 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110; and

(b) Any information set forth in subsection 1 that the Commissioner requires to be included in the application.

3. An administrator or insurer that registers a medical discount plan is not required to pay the fees for registering or renewing the registration of the medical discount plan pursuant to this section.

4. The Commissioner shall, by regulation, designate the provisions of subsection 1 that shall be deemed satisfied by an administrator, insurer or

affiliate of an insurer that has complied with substantially similar requirements pursuant to other provisions of this title.

Sec. 120. NRS 695H.180 is hereby amended to read as follows:

695H.180 A person who violates any provision of this chapter or an order or regulation of the Commissioner issued or adopted pursuant thereto may be assessed an administrative penalty by the Commissioner of not more than $2,000 for each act or violation **.** ~~[, not to exceed an aggregate amount of $10,000 for violations of a similar nature. For the purposes of this section, violations shall be deemed to be of a similar nature if the violations consist of the same or similar conduct, regardless of the number of times the conduct occurred.]~~

Sec. 121. NRS 697.173 is hereby amended to read as follows:

697.173 1. Except as otherwise provided in subsection ~~[2,]~~ ***4,*** a person is entitled to receive, renew or hold a license as a bail enforcement agent if the person:

(a) Is a natural person not less than 21 years of age.

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(c) Has a high school diploma or a general equivalency diploma or has an equivalent education as determined by the Commissioner.

(d) Has ~~[submitted to the Commissioner a report of an investigation of the criminal history of the person from the Central Repository for Nevada Records of Criminal History which indicates that the person possesses the qualifications for licensure as a bail enforcement agent.]~~ ***complied with the requirements of subsection 4 of NRS 697.180.***

(e) Has submitted to the Commissioner the results of an examination conducted by a psychiatrist or psychologist licensed to practice in this state which indicate that the person does not suffer from a psychological condition that would adversely affect the ability of the person to carry out his or her duties as a bail enforcement agent.

(f) Has passed any written examination required by this chapter.

(g) Submits to the Commissioner the results of a test to detect the presence of a controlled substance in the system of the person that was administered no earlier than 30 days before the date of the application for the license which do not indicate the presence of any controlled substance for which the person does not possess a current and lawful prescription issued in the name of the person.

(h) Successfully completes the training required by NRS 697.177.

2. A person is not entitled to receive, renew or hold a license of a bail enforcement agent if the person:

(a) Has been convicted of a felony in this state or of any offense committed in another state which would be a felony if committed in this state; or

(b) Has been convicted of an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance.

Sec. 122. NRS 697.180 is hereby amended to read as follows:

697.180 1. A written application for a license as a bail agent, general agent, bail enforcement agent or bail solicitor must be filed with the Commissioner by the applicant, accompanied by the applicable fees. The application form must:

(a) Include the social security number of the applicant; ***and***

(b) ~~[Be accompanied by a complete set of the applicant's fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(c)]~~ Require full answers to questions reasonably necessary to determine the applicant's:

(1) Identity and residence.

(2) Business record or occupations for not less than the 2 years immediately preceding the date of the application, with the name and address of each employer, if any.

(3) Prior criminal history, if any.

2. The Commissioner may require the submission of such other information as may be required to determine the applicant's qualifications for the license for which the applicant applied.

3. The applicant must verify his or her application. An applicant for a license under this chapter shall not knowingly misrepresent or withhold any fact or information called for in the application form or in connection therewith.

4. Each applicant must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

Sec. 123. NRS 223.580 is hereby amended to read as follows:

223.580 On or before February 1 of each year, the Director shall submit a written report to the Governor, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:

1. A statement setting forth the number and geographic origin of the written and telephonic inquiries received by the Office for Consumer Health Assistance and the issues to which those inquiries were related;

2. A statement setting forth the type of assistance provided to each consumer and injured employee who sought assistance from the Director, including, without limitation, the number of referrals made to the Attorney General pursuant to subsection 7 of NRS 223.560;

3. A statement setting forth the disposition of each inquiry and complaint received by the Director; and

4. A statement setting forth the number of external reviews conducted by ~~[external]~~ ***independent*** review organizations pursuant to NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive, ***of this act,*** and the disposition of ~~[each of]~~ those reviews as reported pursuant to NRS 695G.310 ~~[.]~~ ***and section 110 of this act.***

Sec. 124. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.170, 695G.171, 695G.173,

695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive, ***of this act*** and 695G.405, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 125. NRS 422.273 is hereby amended to read as follows:

422.273 1. For any Medicaid managed care program established in the State of Nevada, the Department shall contract only with a health maintenance organization that has:

(a) Negotiated in good faith with a federally-qualified health center to provide health care services for the health maintenance organization;

(b) Negotiated in good faith with the University Medical Center of Southern Nevada to provide inpatient and ambulatory services to recipients of Medicaid; and

(c) Negotiated in good faith with the University of Nevada School of Medicine to provide health care services to recipients of Medicaid.

➥ Nothing in this section shall be construed as exempting a federally-qualified health center, the University Medical Center of Southern Nevada or the University of Nevada School of Medicine from the requirements for contracting with the health maintenance organization.

2. During the development and implementation of any Medicaid managed care program, the Department shall cooperate with the University of Nevada School of Medicine by assisting in the provision of an adequate and diverse group of patients upon which the school may base its educational programs.

3. The University of Nevada School of Medicine may establish a nonprofit organization to assist in any research necessary for the development of a Medicaid managed care program, receive and accept gifts, grants and donations to support such a program and assist in establishing educational services about the program for recipients of Medicaid.

4. For the purpose of contracting with a Medicaid managed care program pursuant to this section, a health maintenance organization is exempt from the provisions of NRS 695C.123.

5. The provisions of this section apply to any managed care organization, including a health maintenance organization, that provides health care services to recipients of Medicaid under the State Plan for Medicaid or the Children's Health Insurance Program pursuant to a contract with the Division. Such a managed care organization or health maintenance organization is not required to establish a system for conducting external reviews of ~~[~~final~~]~~ adverse determinations in accordance with chapter 695B, 695C or 695G of NRS. This subsection does not exempt such a managed care organization or health maintenance organization for services provided pursuant to any other contract.

6. As used in this section, unless the context otherwise requires:

(a) "Federally-qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

(b) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.

(c) "Managed care organization" has the meaning ascribed to it in NRS 695G.050.

Sec. 126. NRS 616A.235 is hereby amended to read as follows:

616A.235 ~~["External"]~~ ***"Independent*** review organization" means an organization which has been issued a certificate pursuant to NRS 616A.469 that authorizes the organization to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS.

Sec. 127. NRS 616A.469 is hereby amended to read as follows:

616A.469 1. The Commissioner may issue certificates authorizing qualified ~~[external]~~ ***independent*** review organizations to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS. If the Commissioner issues such certificates and the Commissioner determines that an ~~[external]~~ ***independent*** review organization is qualified to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS, the Commissioner shall issue a certificate to the ~~[external]~~ ***independent*** review organization that authorizes the organization to conduct such external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner.

2. The Commissioner may adopt regulations setting forth the procedures that an ~~[external]~~ ***independent*** review organization must follow to be issued a certificate to conduct external reviews. Any regulations adopted pursuant to this section must include, without limitation, provisions setting forth:

(a) The manner in which an ~~[external]~~ ***independent*** review organization may apply for a certificate and the requirements for the issuance and renewal of the certificate pursuant to this section;

(b) The grounds for which the Commissioner may refuse to issue, suspend, revoke or refuse to renew a certificate issued pursuant to this section;

(c) The manner and circumstances under which an ~~[external]~~ ***independent*** review organization is required to conduct its business; and

(d) Any applicable fees for issuing or renewing a certificate of an ~~[external]~~ ***independent*** review organization pursuant to this section.

3. A certificate issued pursuant to this section expires 1 year after it is issued and may be renewed in accordance with regulations adopted by the Commissioner.

4. Before the Commissioner may issue a certificate to an ~~[external]~~ ***independent*** review organization, the ~~[external]~~ ***independent*** review organization must:

(a) Demonstrate to the satisfaction of the Commissioner that it is able to carry out, in a timely manner, the duties of an ~~[external]~~ ***independent*** review organization as set forth in NRS 616C.363 and the regulations adopted by the Commissioner. The demonstration must include, without limitation, proof that the ~~[external]~~ ***independent*** review organization employs, contracts with or otherwise retains only persons who are qualified because of their education, training, professional licensing and experience to perform the duties assigned to those persons; and

(b) Provide assurances satisfactory to the Commissioner that the ~~[external]~~ ***independent*** review organization will:

(1) Conduct external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner;

(2) Render its decisions in a clear, consistent, thorough and timely manner; and

(3) Avoid conflicts of interest.

5. For the purposes of this section, an ~~[external]~~ ***independent*** review organization has a conflict of interest if the ~~[external]~~ ***independent*** review organization or any employee, agent or contractor of the ~~[external]~~ ***independent*** review organization who conducts an external review has a professional, familial or financial interest of a material nature with respect to any person who has a substantial interest in the outcome of the external review, including, without limitation:

(a) The claimant;

(b) The employer; or

(c) The insurer or any officer, director or management employee of the insurer.

6. The Commissioner shall not issue a certificate to an ~~[external]~~ ***independent*** review organization that is affiliated with:

(a) An organization for managed care which provides comprehensive medical and health care services to employees for injuries or diseases pursuant to chapters 616A to 617, inclusive, of NRS;

(b) An insurer;

(c) A third-party administrator; or

(d) A national, state or local trade association.

7. An ~~[external]~~ ***independent*** review organization which is certified or accredited by an accrediting body that is nationally recognized shall be deemed to have satisfied all the conditions and qualifications required for the ~~[external]~~ ***independent*** review organization to be issued a certificate pursuant to this section.

Sec. 128. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. ~~[For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an]~~ ***An*** employee leasing company which complies with the provisions of NRS 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the employees it leases to a client company. ***The provisions of this subsection apply only for the purposes of chapters 612 and 616A to 617, inclusive, of NRS.***

2. ~~[If an employee leasing company complies with the provisions of subsection 3, the]~~ ***An*** employee leasing company shall be deemed to be ~~[the]~~ ***an*** employer of its leased employees for the purposes of ***offering,*** sponsoring and maintaining any benefit plans ***.*** ~~[, including, without limitation, for the purposes of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.]~~ ***The provisions of this subsection do not affect the employer-employee relationship that exists between a leased employee and a client company.***

3. An employee leasing company shall not offer ***, sponsor or maintain for*** its ***leased*** employees any self-funded ~~[industrial]~~ insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS ~~[.]~~ ***or title 57 of NRS.***

4. If an employee leasing company fails to:

(a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required,

➥ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 129. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him or her on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Order an independent medical examination and refer the employee to a physician or chiropractor of his or her choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a

permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an ~~[external]~~ ***independent*** review organization, submit the matter to an ~~[external]~~ ***independent*** review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. The appeals officer may consider the opinion of an examining physician or chiropractor, in addition to the opinion of an authorized treating physician or chiropractor, in determining the compensation payable to the injured employee.

5. If an injured employee has requested payment for the cost of obtaining a second determination of his or her percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

6. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

7. Any party to the appeal or contested case or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

8. Except as otherwise provided in subsection 9, the appeals officer shall render a decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

9. The appeals officer shall render a decision on a contested claim submitted pursuant to subsection 2 of NRS 616C.345 within 15 days after:

(a) The date of the hearing; or

(b) If the appeals officer orders an independent medical examination, the date the appeals officer receives the report of the examination,

➥ unless both parties to the contested claim agree to a later date.

10. The appeals officer may affirm, modify or reverse any decision made by a hearing officer and issue any necessary and proper order to give effect to his or her decision.

Sec. 130. NRS 616C.363 is hereby amended to read as follows:

616C.363 1. Not later than 5 business days after the date that an ~~[external]~~ ***independent*** review organization receives a request for an external review, the ~~[external]~~ ***independent*** review organization shall:

(a) Review the documents and materials submitted for the external review; and

(b) Notify the injured employee, his or her employer and the insurer whether the ~~[external]~~ ***independent*** review organization needs any additional information to conduct the external review.

2. The ~~[external]~~ ***independent*** review organization shall render a decision on the matter not later than 15 business days after the date that it receives all information that is necessary to conduct the external review.

3. In conducting the external review, the ~~[external]~~ ***independent*** review organization shall consider, without limitation:

(a) The medical records of the insured;

(b) Any recommendations of the physician of the insured; and

(c) Any other information approved by the Commissioner for consideration by an ~~[external]~~ ***independent*** review organization.

4. In its decision, the ~~[external]~~ ***independent*** review organization shall specify the reasons for its decision. The ~~[external]~~ ***independent*** review organization shall submit a copy of its decision to:

(a) The injured employee;

(b) The employer;

(c) The insurer; and

(d) The appeals officer, if any.

5. The insurer shall pay the costs of the services provided by the ~~[external]~~ ***independent*** review organization.

6. The Commissioner may adopt regulations to govern the process of external review and to carry out the provisions of this section. Any regulations adopted pursuant to this section must provide that:

(a) All parties must agree to the submission of a matter to an ~~[external]~~ ***independent*** review organization before a request for external review may be submitted;

(b) A party may not be ordered to submit a matter to an ~~[external]~~ ***independent*** review organization; and

(c) The findings and decisions of an ~~[external]~~ ***independent*** review organization are not binding.

Sec. 131. NRS 683A.371, ~~[683A.373,]~~ 684A.155, 686A.225, 689A.360, 689A.625 and 689C.105 are hereby repealed.

Sec. 132. 1. This section and sections **9.5 and 51.9 of this act become effective upon passage and approval.**

2. Sections 1 to **9, inclusive, 10 to 51.7, inclusive, 52 to** 56, inclusive, and 58 to 131, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

~~[2.]~~ **3.** Section 57 of this act becomes effective on January 1, 2013.

~~[3.]~~ **4.** Sections 23, 24, 25, 45, 47, 59, 60 and 122 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS

683A.371 Certification; conflicts of interest; annual list.

~~[683A.373 Submission of annual list to Office for Consumer Health Assistance.]~~

684A.155 Limited license: Commissioner authorized to issue to adjuster licensed in adjoining state; terms; powers.

686A.225 Certain insurers to retain adjuster who resides in this State.

689A.360 Filing of rates.

689A.625 Supplemental coverage not health benefit plan if individual carrier files annual certification with Commissioner.

689C.105 "Supplemental coverage" defined.

Assemblyman Atkinson moved that the Assembly concur in the Senate Amendment No. 903 to Assembly Bill No. 74.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 200, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 720 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 12, which is attached to and hereby made a part of this report.

MARILYN KIRKPATRICK	VALERIE WIENER
KELVIN ATKINSON	MIKE MCGINNESS
JOHN ELLISON	MICHAEL SCHNEIDER
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA12.

SUMMARY—Makes various changes relating to ~~[time shares.]~~ **real property.** (BDR 10-217)

AN ACT relating to ~~[time shares;]~~ **real property;** restricting the disclosure of certain information about owners of time shares; requiring certain mailings to owners of time shares upon request by an owner; **authorizing a notice of sale on the foreclosure of a time share to be given by posting on an Internet website under certain circumstances; revising provisions concerning the posting of a notice of default and election to sell or a notice of sale;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill requires the manager or board of an association of a time-share plan to maintain a list of owners of time shares in the plan. **Section 2** also prohibits the manager or board from disclosing personal information about an owner without the prior written consent of the owner except under certain circumstances.

Section 3 of this bill requires the manager or board of an association of a time-share plan to: (1) mail certain materials to all owners on the list of owners of time shares in the plan upon the request of an owner under certain circumstances; (2) provide an owner with the option to place certain limits on the information that may be provided to other owners; (3) provide an owner with a written disclosure regarding the potential effect of giving consent to publish or furnish information about the owner; and (4) establish procedures for such mailings.

Existing law requires that, among other forms of notice, a sale of a time share to satisfy a lien for unpaid assessments be noticed by publication in a newspaper under certain circumstances. (NRS 119A.560) Section 4.5 of this bill authorizes, as an alternative to that form of publication, such a notice of sale to be posted on an Internet website if a statement of the Internet address is also published in a newspaper. Section 4.5 also authorizes the publication of such information for one or more notices of sale in the same publication.

Existing law requires that, among other forms of notice, a sale of real property in foreclosure under a deed of trust be noticed by publication in a newspaper under certain circumstances. (NRS 107.080) Section 6 of this bill authorizes, as an alternative to that form of publication, a notice of a time share in foreclosure under a deed of trust to be posted on an Internet website if a statement of the Internet address is also published in a newspaper.

Existing law provides that for a residential foreclosure sale, a copy of the notice of default and election to sell and the notice of sale must be posted in a conspicuous place on the property not later than 3 business days after the notice of default and election to sell. (NRS 107.087) Section 8 of this bill provides that for a notice of default and election to sell, the notice must be posted not later than 100 days before the date of sale and for a notice of sale, the notice must be posted not later than 15 days before the date of sale.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 119A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. A manager or, if there is no manager, the board shall maintain in the records of an association a complete list of the names and mailing addresses of all owners. The list must be updated not less frequently than quarterly.***

2. If a time-share plan is part of a common-interest community governed by chapter 116 of NRS, the names and addresses of delegates or representatives who are elected pursuant to NRS 116.31105 or, if there are none, the name and address of the association must appear on the list of owners of an association organized under NRS 116.3101 in lieu of the names, addresses and other personal information of the individual owners.

3. Notwithstanding any provision of the declaration or bylaws of a time-share plan to the contrary, a manager or a board may not, except as otherwise authorized or required by law, publish or furnish any information about any owner to any other owner or any other person without the prior written consent of the owner whose information is requested.

4. Before obtaining the written consent of an owner pursuant to subsection 3, a manager or a board shall provide the owner with:

(a) The option to limit the information about the owner that may be published or furnished to any other owner or any other person:

(1) To exclusively the owner's name and mailing address; and

(2) For use only in legitimate matters of business of the association.

(b) The following written disclosure:

BY GIVING YOUR CONSENT TO PUBLISH OR FURNISH INFORMATION ABOUT YOU FOR PURPOSES OTHER THAN LEGITIMATE MATTERS OF BUSINESS OF THE ASSOCIATION, THE INFORMATION COULD BE USED FOR COMMERCIAL OR OTHER PURPOSES.

5. The provisions of this section:

(a) Do not restrict the use by a manager or a board of information about an owner in the performance of their respective duties under the declaration of a time share plan or as otherwise required by law.

(b) Supersede any provisions of chapter 82 of NRS to the contrary.

Sec. 3. ***1. A manager or, if there is no manager, the board shall:***

(a) Establish reasonable procedures by which owners may:

(1) Solicit votes or proxies from other owners; and

(2) Provide information to other owners with respect to legitimate matters of business of the association.

(b) Mail to all persons included in the list of owners materials provided by an owner upon the request of that owner if the purpose of the mailing is to advance legitimate matters of business of the association, including, without limitation, a solicitation of a proxy for any purpose, provided that the owner who requests the mailing:

(1) Provides to the manager or board a separate copy of the materials for each of the owners on the list or, if the mailing is to be transmitted electronically, a single copy of the materials in an electronic format; and

(2) Pays the association the actual costs of the mailing before the mailing.

2. The board is responsible for determining whether a mailing requested pursuant to this section advances legitimate matters of business of the association.

3. The manager or board, as applicable, may determine the manner in which a mailing may be accomplished.

4. For the purposes of this section, "mail" and "mailing" include, without limitation, a distribution made by electronic or similar means, such as the transmission of electronic mail as defined in NRS 41.715.

Sec. 4. (Deleted by amendment.)

Sec. 4.5. **NRS 119A.560 is hereby amended to read as follows:**

119A.560 1. The power of sale may not be exercised until:

(a) The developer or the association, its agent or attorney has first executed and caused to be recorded with the recorder of the county wherein the project is located a notice of default and election to sell the time share or cause its sale to satisfy the assessment lien; and

(b) The owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement for 60 days computed as prescribed in subsection 2.

2. The 60-day period provided in subsection 1 begins on the first day following the day upon which the notice of default and election to sell is recorded and a copy of the notice is mailed by certified or registered mail with postage prepaid to the owner or to his or her successor in interest at the owner's address if that address is known, otherwise to the address of the project. The notice must describe the deficiency in payment.

3. The developer or the association, its agent or attorney shall, after expiration of the 60-day period and before selling the time share, give notice of the time and place of the sale in the manner and for a time not less than that required for the sale of real property upon execution, except that ~~[a]~~ ***:***

(a) A copy of the notice of sale must be mailed on or before the first publication or posting required by NRS 21.130 by certified or registered mail with postage prepaid to the owner or to his or her successor in interest at the owner's address if that address is known, otherwise to the address of the project ~~[.]~~ ***; and***

(b) In lieu of publishing a copy of the notice of sale in a newspaper pursuant to the provisions of NRS 21.130, the notice of sale may be given by posting a copy of the notice and a declaration pursuant to NRS 53.045 on a form prescribed by the Division pursuant to subsection 6 for 3 successive weeks on an Internet website and publishing three times, once a week for 3 successive weeks, in a newspaper, if there is one in the county, a statement in at least 10-point bold type, which includes, without limitation:

(1) A statement that the notice of sale for the foreclosure of the time share is posted on an Internet website;

(2) The Internet address where the notice is posted;

(3) The name of the record owner and the permanent identification number of each time share;

(4) The name and street address of the property in which the time share is located; and

(5) A statement of the date, time and place of the sale.

➥ A statement published in a newspaper pursuant to this paragraph may include the information required for a notice of sale for one or more time shares.

4. The sale may be made at the office of the developer or the association if the notice so provided, whether the project is located within the same county as the office of the developer or the association or not.

~~[4.]~~ ***5.*** Every sale made under the provisions of NRS 119A.550 vests in the purchaser the title of the owner without equity or right of redemption.

6. The Division shall prepare a form for a declaration pursuant to NRS 53.045 that a developer or association must post on an Internet website with a notice of sale pursuant to paragraph (b) of subsection 3.

Sec. 5. (Deleted by amendment.)

Sec. 6. **NRS 107.080 is hereby amended to read as follows:**

107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment;

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation; and

(d) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is

mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; and

(b) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in ~~[three public places of the township or city]~~ ***a public place in the county*** where the property is situated ***;*** ~~[and where the property is to be sold;]~~

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated ~~[,]~~ ***or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement in a newspaper in the manner required by subsection 3 of NRS 119A.560;*** and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made

pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

9. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 8, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to $500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 8 and for reasonable attorney's fees and the costs of bringing the action.

10. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of $150 for deposit in the State General Fund.

(b) A fee of $50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

➥ The fees collected pursuant to this subsection must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account as prescribed pursuant to this subsection. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in this subsection.

11. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 10.

12. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":

(a) Means a structure that is comprised of not more than four units.

(b) Does not include ***vacant land or*** any time share or other property regulated under chapter 119A of NRS.

Sec. 7. **NRS 107.086 is hereby amended to read as follows:**

107.086 1. In addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development; and

(3) A form upon which the grantor or the person who holds the title of record may indicate an election to enter into mediation or to waive mediation and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) Serves a copy of the notice upon the Mediation Administrator; and

(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 which provides that mediation has been completed in the matter.

3. The grantor or the person who holds the title of record shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (3) of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on the form an election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be taken to exercise the power of sale until the completion of the mediation. If the grantor or the person who holds the title of record indicates on the form an election to waive mediation or fails to return the form to the trustee as required by this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or the person who holds the title of record, or proof of service on the grantor or the person who holds the title of record of the notice required by subsection 2 of this section and subsection 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator shall provide to the trustee a certificate which provides that no mediation is required in the matter.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or a representative

shall attend the mediation if the grantor elected to enter into mediation, or the person who holds the title of record or a representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

5. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If the grantor or the person who holds the title of record elected to enter into mediation and fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

8. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than $400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

12. As used in this section:

(a) "Mediation Administrator" means the entity so designated pursuant to subsection 8.

(b) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(c) "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include ***vacant land or*** any time share or other property regulated under chapter 119A of NRS.

Sec. 8. **NRS 107.087 is hereby amended to read as follows:**

107.087 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default and election to sell and the notice of sale must:

(a) Be posted in a conspicuous place on the property not later than ~~[~~3 business days after the notice~~]~~ **:**

(1) For a notice of default and election to sell **, *100 days before the date of sale;*** or ~~[~~the~~]~~

(2) For a notice of sale ~~[is recorded pursuant to NRS 107.080;]~~ ***, 15 days before the date of sale;*** and

(b) Include, without limitation:

(1) The physical address of the property; and

(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

3. A separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or the grantor's successor in interest, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 4 of NRS 107.080. The separate notice must be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to quit.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness;

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. ***The posting of a notice required by this section must be completed by a process server licensed pursuant to chapter 648 of NRS or any constable or sheriff.***

5. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.080.

Sec. 9. **Senate Bill No. 403 of this session is hereby amended by adding thereto a new section to read as follows:**

Sec. 2. This act becomes effective on July 1, 2011.

Sec. 10. **1. This section and section 9 of this act become effective on July 1, 2011.**

2. Sections 1 to 8, inclusive, of this act become effective on October 1, 2011.

Assemblyman Atkinson moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 200.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 193, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 568 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 3, which is attached to and hereby made a part of this report.

MAGGIE CARLTON	SHIRLEY BREEDEN
KELVIN ATKINSON	ALLISON COPENING
TOM GRADY	JOE HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA3.

AN ACT relating to cosmetology; revising certain provisions governing schools of cosmetology; establishing the procedures for the licensure of certain persons who engage in the practice of hair braiding and persons who operate an establishment for hair braiding; revising provisions relating to the regulation of sanitary conditions; revising provisions relating to the licensure of various cosmetology professionals and cosmetological establishments; [~~repealing a provision~~] revising provisions relating to the [~~provision of a~~] surety bond [~~by~~] requirements for a school of cosmetology; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Cosmetology to determine the qualifications of applicants for various licenses in cosmetology, requires the Board to license schools of cosmetology, and authorizes the Board to adopt regulations governing the sanitary conditions in cosmetological establishments, schools of cosmetology and in the practice of cosmetology. (NRS 644.090, 644.120)

~~[Section 6 of this bill: (1) prohibits a school of cosmetology from collecting the entire amount of the cost for a program at the school of cosmetology from a student of cosmetology when the student enters into a contract with the school of cosmetology; (2) authorizes a school of cosmetology to collect certain periodic payments from students; and (3) requires a school of cosmetology to use the contract for enrollment that was submitted to and approved by the Board.]~~ **Section 6.5 of this bill requires each school of cosmetology to: (1) obtain a surety bond in accordance with regulations adopted by the Board; or (2) provide for payment plans, including plans for periodic payments, in accordance with regulations adopted by the Board. The regulations regarding periodic payments must, as the Board determines appropriate, be modeled after certain federal regulations that provide payment periods for certain federal educational loans and grants.**

Sections 7-9 of this bill establish a new license as a hair braider and set forth the requirements, including passing certain examinations, that must be

met before the Board may issue such a license to a person. **Section 7** sets forth the requirements for obtaining such a license for persons who have not previously practiced hair braiding or who have practiced hair braiding in this State on certain relatives without accepting compensation. **Section 8** sets forth the requirements for persons who have practiced hair braiding in another state. **Section 9** sets forth the scope of the examinations that are required to obtain a license to practice hair braiding. **Section 24** of this bill provides an exemption from the licensure requirements for a person who, without accepting compensation, practices hair braiding on a person who is related within the sixth degree of consanguinity.

Section 10 of this bill establishes a new license for persons who wish to operate an establishment for hair braiding and sets forth the requirements that must be met before the Board may issue such a license. **Sections 11-16** of this bill set forth additional requirements governing an establishment for hair braiding, including, without limitation, requirements relating to the notice which must be provided to the Board concerning a change of ownership or location and requirements relating to the qualifications of the person who must supervise the operation of such an establishment.

Under existing law, the Board is also required to provide for the registration of any person who engages in the practice of threading, and is authorized to inspect any facility in which threading is conducted. (NRS 644.331) **Section 22** of this bill authorizes the Board to include the practice of threading and any facility in which it is conducted in its regulations regarding sanitary conditions. **Sections 26-31 and 35** of this bill add United States citizenship or the legal right to remain and work in the United States to the requirements for applicants seeking licensure by the Board.

Existing law requires that schools of cosmetology post with the Board a surety bond as part of licensure. (NRS 644.383) **Section 43** of this bill repeals that requirement.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 640C.100 is hereby amended to read as follows:

640C.100 1. The provisions of this chapter do not apply to:

(a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B of NRS if the massage therapy is performed in the course of the practice for which the person is licensed.

(b) A person licensed as a barber or apprentice pursuant to chapter 643 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for a barber or apprentice pursuant to that chapter.

(c) A person licensed or registered as an aesthetician, ***hair designer, hair braider,*** cosmetologist or cosmetologist's apprentice pursuant to chapter 644 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for an aesthetician, ***hair designer, hair braider,*** cosmetologist or cosmetologist's apprentice pursuant to that chapter.

(d) A person who is an employee of an athletic department of any high school, college or university in this State and who, within the scope of that employment, practices massage therapy on athletes.

(e) Students enrolled in a school of massage therapy recognized by the Board.

(f) A person who practices massage therapy solely on members of his or her immediate family.

(g) A person who performs any activity in a licensed brothel.

2. Except as otherwise provided in subsection 3, the provisions of this chapter preempt the licensure and regulation of a massage therapist by a county, city or town, including, without limitation, conducting a criminal background investigation and examination of a massage therapist or applicant for a license to practice massage therapy.

3. The provisions of this chapter do not prohibit a county, city or town from requiring a massage therapist to obtain a license or permit to transact business within the jurisdiction of the county, city or town, if the license or permit is required of other persons, regardless of occupation or profession, who transact business within the jurisdiction of the county, city or town.

4. As used in this section, "immediate family" means persons who are related by blood, adoption or marriage, within the second degree of consanguinity or affinity.

Sec. 2. Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 16, inclusive, of this act.

Sec. 3. "***Establishment for hair braiding" means any premises, mobile unit, building or part of a building where hair braiding is practiced, other than a cosmetological establishment.***

Sec. 4. "***Hair braider" means any person who engages in the practice of hair braiding.***

Sec. 5. ***1. "Hair braiding" means a natural form of hair manipulation by braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving or wrapping human hair, natural fibers, synthetic fibers and hair extensions. The practice may be performed by hand or by using simple braiding devices, including, without limitation, clips, combs, hairpins, scissors, needles and thread.***

2. The term includes:

(a) Cleansing the scalp; and

(b) The making of customized wigs from natural hair, natural fibers, synthetic fibers and hair extensions.

3. The term does not include:

(a) The use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles or chemical hair bleaching agents applied to growing human hair;

(b) The cutting or growing of human hair, except that the term includes the trimming of hair extensions or sewn weave-in extensions only as applicable to the braiding process; or

(c) Any other activity set forth in the definition of "cosmetologist" pursuant to NRS 644.023 other than the activities expressly set forth in subsections 1 and 2.

Sec. 6. ~~[1. A school of cosmetology shall not:~~

~~(a) Collect the entire amount of the cost for a program at the school of cosmetology from a student of cosmetology at the time the student enters into a contract with the school of cosmetology; or~~

~~(b) Except for an initial payment of not more than 25 percent of the total amount of the cost for the program at the school, invoice or collect from a student a periodic payment toward the cost for the quarter of the program at the school of cosmetology until at least 75 percent of the instruction in the curriculum of the immediately preceding quarter of the program has been completed.~~

~~2. A school of cosmetology shall use the contract for the enrollment of a student in a program at the school of cosmetology that was submitted to and approved by the Board, including any revisions approved by the Board pursuant to subsection 3, to contract with the student of cosmetology. The approved contract must include, without limitation:~~

~~(a) A notice indicating that the school of cosmetology is not required to post a surety bond with the Board; and~~

~~(b) A provision indicating that the school of cosmetology is authorized to collect:~~

~~(1) Not more than 25 percent of the total amount of the cost for the program at the school of cosmetology from a student at the time the student enters into the contract with the school of cosmetology; and~~

~~(2) Additional periodic payments in increments of not more than 25 percent of the total amount of the cost for the program for each quarter of the program. This amount may be collected by the school of cosmetology when at least 75 percent of the instruction in the curriculum of the immediately preceding quarter of the program has been completed.~~

~~3. The school of cosmetology shall submit to the Board for its approval a notice detailing any revisions to the approved contract. The revisions~~

~~*must be approved by the Board before the school of cosmetology may use the revised contract. The revisions shall be deemed to be approved by the Board if the revisions are not disapproved by the Board within 60 days after their submission to the Board.*~~

~~*4. The Board:*~~

~~*(a) Shall respond to any complaints with regard to a contract between a school of cosmetology and a student of cosmetology; and*~~

~~*(b) If the Board or its staff has reason to believe that a school of cosmetology has not complied with any provisions governing such a contract, may require the school of cosmetology to submit for review its current contract for the enrollment of a student or may conduct an inspection of the school of cosmetology.]*~~ **(Deleted by amendment.)**

Sec. 6.5. *1. Each school of cosmetology shall:*

(a) Obtain a surety bond in accordance with regulations adopted by the Board; or

(b) Provide for payment plans, including plans for periodic payments, in accordance with regulations adopted by the Board.

2. The Board shall adopt regulations regarding surety bonds and payment plans for purposes of subsection 1. The regulations regarding periodic payments must, as the Board determines appropriate, be modeled after 34 C.F.R. § 668.4.

Sec. 7. *1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:*

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has not practiced hair braiding previously:

(1) Has completed a minimum of 250 hours of training and education as follows:

(I) Fifty hours concerning the laws of Nevada and the regulations of the Board relating to cosmetology;

(II) Seventy-five hours concerning infection control and sanitation;

(III) Seventy-five hours regarding the health of the scalp and the skin of the human body; and

(IV) Fifty hours of clinical practice; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

(f) If the person has practiced hair braiding in this State on a person who is related within the sixth degree of consanguinity without a license and without charging a fee:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year on such a relative; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant;

(3) The current passport issued to the applicant; or

(4) A voter registration card issued to the applicant pursuant to NRS 293.517.

Sec. 8. *1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has practiced hair braiding in another state, has applied to the Board in proper form and paid a fee of $200, and who:*

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has practiced hair braiding in another state in accordance with a license issued in that other state:

(1) Has submitted to the Board proof of the license; and

(2) Has passed the written tests described in section 9 of this act.

(f) If the person has practiced hair braiding in another state without a license and it is legal in that state to practice hair braiding without a license:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant;

(3) The current passport issued to the applicant; or

(4) A voter registration card issued to the applicant pursuant to NRS 293.517.

Sec. 9. *1. The examination for licensure as a hair braider pursuant to paragraph (e) of subsection 1 of section 8 of this act must include:*

(a) A written test on antisepsis, sterilization and sanitation; and

(b) A written test on the laws of Nevada and the regulations of the Board relating to cosmetology.

2. The examination for licensure as a hair braider pursuant to section 7 or paragraph (f) of subsection 1 of section 8 of this act must include:

(a) The written tests described in subsection 1; and

(b) A practical demonstration in hair braiding.

Sec. 10. *1. Any person wishing to operate an establishment for hair braiding must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain a detailed floor plan of the proposed establishment for hair braiding and proof of any particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker.*

2. The applicant must submit the application accompanied by the required fees for inspection and licensing. After the applicant has submitted the application, the applicant must contact the Board and request a verbal review concerning the application to determine if the establishment for hair braiding complies with the requirements of this

chapter and any regulations adopted by the Board. If, based on the verbal review, the Board determines that the establishment for hair braiding meets those requirements, the Board shall issue to the applicant the required license. Upon receipt of the license, the applicant must contact the Board to request the activation of the license. A license issued pursuant to this subsection is not valid until it is activated. The Board shall conduct an on-site inspection of the establishment for hair braiding not later than 90 days after the date on which the license is activated.

3. The fee for a license for an establishment for hair braiding is $200. The fee for the initial inspection is $15. If an additional inspection is necessary, the fee is $25.

Sec. 11. ***1. The Board must be notified of any change of ownership, name, services offered or location of an establishment for hair braiding. The establishment may not be operated after the change until a new license is issued. The owner of the establishment must apply to the Board for the license and pay the fees established pursuant to subsection 3 of section 10 of this act.***

2. After a license has been issued for the operation of an establishment for hair braiding, any changes in the physical structure of the establishment must be approved by the Board.

Sec. 12. ***1. The license of an establishment for hair braiding expires 2 years after the date of issuance or renewal of the license.***

2. If the owner of an establishment for hair braiding fails to pay the required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 13. ***Every holder of a license issued by the Board to operate an establishment for hair braiding shall display the license in plain view of members of the general public in the principal office or place of business of the holder.***

Sec. 14. ***Hair braiding may be practiced in an establishment for hair braiding by licensed hair braiders, hair designers or cosmetologists who are:***

1. Employees of the owner of the establishment; or

2. Lessees of space from the owner of the establishment.

Sec. 15. ***An establishment for hair braiding must, at all times, be under the immediate supervision of a licensed hair braider, hair designer or cosmetologist.***

Sec. 16. ***Food or beverages for immediate consumption may be sold in an establishment for hair braiding.***

Sec. 17. NRS 644.020 is hereby amended to read as follows:

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.0295, inclusive, ***and***

sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.

Sec. 18. NRS 644.0205 is hereby amended to read as follows:

644.0205 1. "Aesthetician" means any person who engages in the practices of:

(a) Beautifying, massaging, cleansing or stimulating the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

(b) Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body; and

(c) Removing superfluous hair from the body of any person by the use of depilatories, waxing, tweezers or sugaring,

➥ but does not include the branches of cosmetology of a cosmetologist, hair designer, ***hair braider,*** electrologist or nail technologist.

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 19. NRS 644.024 is hereby amended to read as follows:

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** demonstrator of cosmetics and nail technologist.

Sec. 20. NRS 644.090 is hereby amended to read as follows:

644.090 The Board shall:

1. Hold examinations to determine the qualifications of all applicants for a license, except as otherwise provided in this chapter, whose applications have been submitted to it in proper form.

2. Issue licenses to such applicants as may be entitled thereto.

3. License ***establishments for hair braiding,*** cosmetological establishments and schools of cosmetology.

4. Report to the proper prosecuting officers all violations of this chapter coming within its knowledge.

5. Inspect schools of cosmetology ***, establishments for hair braiding*** and cosmetological establishments to ensure compliance with the statutory requirements and adopted regulations of the Board. This authority extends to any member of the Board or its authorized employees.

Sec. 21. NRS 644.110 is hereby amended to read as follows:

644.110 The Board shall adopt reasonable regulations:

1. For carrying out the provisions of this chapter.

2. For conducting examinations of applicants for licenses.

3. For governing the recognition of, and the credits to be given to, the study of cosmetology under a licensed electrologist or in a school of cosmetology licensed pursuant to the laws of another state or territory of the United States or the District of Columbia.

4. For governing the conduct of schools of cosmetology. The regulations must include but need not be limited to, provisions:

(a) Prohibiting schools from requiring that students purchase beauty supplies for use in the course of study;

(b) Prohibiting schools from deducting earned hours of school credit or any other compensation earned by a student as a punishment for misbehavior of the student;

(c) Providing for lunch and coffee recesses for students during school hours; and

(d) Allowing a member or an authorized employee of the Board to review the records of a student's training and attendance.

5. Governing the courses of study and practical training required of persons for treating the skin of the human body.

6. For governing the conduct of cosmetological establishments.

7. As the Board determines are necessary for governing the conduct of establishments for hair braiding.

Sec. 22. NRS 644.120 is hereby amended to read as follows:

644.120 1. The Board may adopt such regulations governing sanitary conditions as it deems necessary with particular reference to the precautions to be employed to prevent the creating or spreading of infectious or contagious diseases ***in the practice of hair braiding, in establishments for hair braiding, in the practice of a cosmetologist,*** in cosmetological establishments or schools of cosmetology, ~~[or in the practice of a cosmetologist.]~~ ***in the practice of threading and in any facility in this State in which threading is conducted.***

2. No regulation governing sanitary conditions thus adopted has any effect until it has been approved by the State Board of Health.

3. A copy of all regulations governing sanitary conditions which are adopted must be furnished to each person to whom a license is issued for the conduct of a cosmetological establishment, ***establishment for hair braiding,*** school of cosmetology or practice of cosmetology.

Sec. 23. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** demonstrator of cosmetics and cosmetologist, together with the names and addresses of all ***establishments for hair braiding,*** cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 24. NRS 644.190 is hereby amended to read as follows:

644.190 1. It is unlawful for any person to conduct or operate a cosmetological establishment, ***an establishment for hair braiding, a*** school of cosmetology or any other place of business in which any one or any combination of the occupations of cosmetology are taught or practiced unless the person is licensed in accordance with the provisions of this chapter.

2. Except as otherwise provided in ~~[subsection 4,]~~ ***subsections 4 and 5,*** it is unlawful for any person to engage in, or attempt to engage in, the practice of cosmetology or any branch thereof, whether for compensation or otherwise, unless the person is licensed in accordance with the provisions of this chapter.

3. This chapter does not prohibit:

(a) Any student in any school of cosmetology established pursuant to the provisions of this chapter from engaging, in the school and as a student, in work connected with any branch or any combination of branches of cosmetology in the school.

(b) An electrologist's apprentice from participating in a course of practical training and study.

(c) A person issued a provisional license as an instructor pursuant to NRS 644.193 from acting as an instructor and accepting compensation therefor while accumulating the hours of training as a teacher required for an instructor's license.

(d) The rendering of cosmetological services by a person who is licensed in accordance with the provisions of this chapter, if those services are rendered in connection with photographic services provided by a photographer.

(e) A registered cosmetologist's apprentice from engaging in the practice of cosmetology under the immediate supervision of a licensed cosmetologist.

4. A person employed to render cosmetological services in the course of and incidental to the production of a motion picture, television program, commercial or advertisement is exempt from the licensing requirements of this chapter if he or she renders cosmetological services only to persons who will appear in that motion picture, television program, commercial or advertisement.

5. A person practicing hair braiding is exempt from the licensing requirements of this chapter applicable to hair braiding if the hair braiding is practiced on a person who is related within the sixth degree of consanguinity and the person does not accept compensation for the hair braiding.

Sec. 25. NRS 644.193 is hereby amended to read as follows:

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his or her education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, ***hair braider,*** aesthetician or nail technologist for 1 year and submits written verification of his or her experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself or herself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than $40 and not more than $75 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year after the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

Sec. 26. NRS 644.200 is hereby amended to read as follows:

644.200 The Board shall admit to examination for a license as a cosmetologist, at any meeting of the Board held to conduct examinations, any person who has made application to the Board in proper form and paid the fee, and who before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***

4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to applicable state or federal requirements.

~~[4.]~~ ***5.*** Has had any one of the following:

(a) Training of at least 1,800 hours, extending over a school term of 10 months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of a cosmetologist for a period of 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board.

(d) Completion of at least 3,600 hours of service as a cosmetologist's apprentice in a licensed cosmetological establishment in which all of the occupations of cosmetology are practiced. The required hours must have been completed during the period of validity of the certificate of registration as a cosmetologist's apprentice issued to the person pursuant to NRS 644.217.

Sec. 27. NRS 644.203 is hereby amended to read as follows:

644.203 The Board shall admit to examination for a license as an electrologist any person who has made application to the Board in the proper form and paid the fee, and who before or on the date set for the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed the 12th grade in school or its equivalent.

~~[4.]~~ ***5.*** Has or has completed any one of the following:

(a) A minimum training of 500 hours under the immediate supervision of an approved electrologist in an approved school in which the practice is taught.

(b) Study of the practice for at least 1,000 hours extending over a period of 5 consecutive months, under an electrologist licensed pursuant to this chapter, in an approved program for electrologist's apprentices.

(c) A valid electrologist's license issued by a state whose licensing requirements are equal to or greater than those of this State.

(d) Either training or practice, or a combination of training and practice, in electrology outside this State for a period specified by regulations of the Board.

Sec. 28. NRS 644.204 is hereby amended to read as follows:

644.204 The Board shall admit to examination for a license as a hair designer, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

~~[4.]~~ ***5.*** Has had at least one of the following:

(a) Training of at least 1,200 hours, extending over a period of 7 consecutive months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of hair designing for at least 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board.

Sec. 29. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee and who, before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed the 10th grade in school or its equivalent.

~~[4.]~~ ***5.*** Has had any one of the following:

(a) Practical training of at least 600 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

Sec. 30. NRS 644.206 is hereby amended to read as follows:

644.206 The Board shall admit to examination for a license as a demonstrator of cosmetics any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;
2. Is of good moral character;
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States;***
4. Has completed a course provided by the Board relating to sanitation; and

~~[4.]~~ ***5.*** Except as otherwise provided in NRS 622.090, has received a score of not less than 75 percent on the examination administered by the Board.

Sec. 31. NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;
2. Is of good moral character;
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States;***
4. Has successfully completed the 10th grade in school or its equivalent; and

~~[4.]~~ ***5.*** Has received a minimum of 900 hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

Sec. 32. NRS 644.220 is hereby amended to read as follows:

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than $75 and not more than $200.

(b) For examination as an electrologist, not less than $75 and not more than $200.

(c) For examination as a hair designer, not less than $75 and not more than $200.

(d) ***For examination as a hair braider, $110.***

(e) For examination as a nail technologist, not less than $75 and not more than $200.

~~[(e)]~~ ***(f)*** For examination as an aesthetician, not less than $75 and not more than $200.

~~[(f)]~~ ***(g)*** For examination as an instructor of aesthetics, hair designers, cosmetology or nail technology, not less than $75 and not more than $200.

~~[➥ The]~~

2. Except as otherwise provided in this subsection, the fee for each reexamination is not less than $75 and not more than $200.

~~[2.]~~ ***The fee for reexamination as a hair braider is $110.***

3. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is $75.

~~[3.]~~ ***4.*** Each applicant referred to in subsections 1 and ~~[2]~~ ***3*** shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 33. NRS 644.260 is hereby amended to read as follows:

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** nail technologist, demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his or her fitness to practice that occupation of cosmetology; and

2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

Sec. 34. NRS 644.300 is hereby amended to read as follows:

644.300 Every licensed nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his or her place of business, as designated in the records of the Board, notify the Secretary of the Board of the new place

of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

Sec. 35. NRS 644.310 is hereby amended to read as follows:

644.310 ~~[Upon]~~ ***Except as otherwise provided in section 8 of this act, upon*** application to the Board, accompanied by a fee of $200, a person currently licensed in any branch of cosmetology under the laws of another state or territory of the United States or the District of Columbia may, without examination, unless the Board sees fit to require an examination, be granted a license to practice the occupation in which the applicant was previously licensed upon proof satisfactory to the Board that the applicant:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed a nationally recognized written examination in this State or in the state or territory or the District of Columbia in which he or she is licensed.
~~[4.]~~ ***5.*** Is currently licensed in another state or territory or the District of Columbia.

Sec. 36. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** nail technologist, demonstrator of cosmetics and instructor expires:

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses ***, other than initial licenses as a hair braider,*** issued for less than 1 1/2 years.

3. Except as otherwise provided in this section, the fee for an initial license as a hair braider is $70. The fee for an initial license as a hair braider issued by the Board for:

(a) At least a portion of 1 month but less than 6 months is $17.50.

(b) Six months or more but less than 12 months is $35.00.

(c) Twelve months or more but less than 18 months is $52.50.

Sec. 37. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) ***For hair braiders, $70.***

(c) For instructors, not less than $60 and not more than $100.

~~[(c)]~~ ***(d)*** For cosmetological establishments, not less than $100 and not more than $200.

~~[(d)]~~ ***(e) For establishments for hair braiding, $70.***

(f) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for ***an establishment for hair braiding,*** a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, ***hair braider,*** aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

5. Before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, ***hair braider,*** aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control in a professional course or seminar approved by the Board.

Sec. 38. NRS 644.330 is hereby amended to read as follows:

644.330 1. A nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his or her license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his or her license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor who has

retired from practice for more than 4 years may have his or her license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

Sec. 39. NRS 644.350 is hereby amended to read as follows:

644.350 1. The license of every cosmetological establishment expires ~~[:~~

~~(a) If the last name of the owner begins with the letter "A" through the letter "M," on the date of birth of the owner in the next succeeding odd-numbered year.~~

~~(b) If the last name of the owner begins with the letter "N" through the letter "Z," on the date of birth of the owner in the next succeeding even-numbered year.~~

~~2. If a cosmetological establishment has more than one owner, the Board shall designate one of the owners whose last name will be used for the purpose of determining the date of expiration of the license of the cosmetological establishment.~~

~~3.]~~ ***2 years after the date of issuance or renewal of the license.***

2. If a cosmetological establishment fails to pay the required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 40. NRS 644.380 is hereby amended to read as follows:

644.380 1. Any person desiring to conduct a school of cosmetology in which any one or any combination of the occupations of cosmetology are taught must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain proof of the particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker. The forms must be accompanied by:

(a) A detailed floor plan of the proposed school;

(b) The name, address and number of the license of the manager or person in charge and of each instructor;

(c) Evidence of financial ability to provide the facilities and equipment required by regulations of the Board and to maintain the operation of the proposed school for 1 year;

(d) Proof that the proposed school will commence operation with an enrollment of not less than 25 bona fide students;

(e) The annual fee for a license; ~~[and]~~

(f) ***A copy of the contract for the enrollment of a student in a program at the school of cosmetology; and***

(g) The name and address of the person designated to accept service of process.

2. Upon receipt by the Board of the application, the Board shall, before issuing a license, determine whether the proposed school:

(a) Is suitably located.

(b) Contains at least 5,000 square feet of floor space and adequate equipment.

(c) ***Has a contract for the enrollment of a student in a program at the school of cosmetology that is approved by the Board.***

(d) Meets all requirements established by regulations of the Board.

3. The annual fee for a license for a school of cosmetology is not less than $500 and not more than $800.

4. If the ownership of the school changes or the school moves to a new location, the school may not be operated until a new license is issued by the Board.

5. After a license has been issued for the operation of a school of cosmetology, the licensee must obtain the approval of the Board before making any changes in the physical structure of the school.

Sec. 41. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of ***an establishment for hair braiding,*** a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, ***hair braider,*** electrologist, instructor, nail technologist, demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410 ~~[.]~~ ***and section 13 of this act.***

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed $2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 42. NRS 644.472 is hereby amended to read as follows:

644.472 1. Except as otherwise provided in subsection 2, it is unlawful for any animal to be on the premises of a licensed ***establishment for hair braiding or*** cosmetological establishment.

2. An aquarium may be maintained on the premises of a licensed ***establishment for hair braiding or*** cosmetological establishment.

Sec. 43. NRS 644.383 is hereby repealed.

Sec. 44. The provisions of this act apply to contracts entered into on or after July 1, 2011.

Sec. 45. ~~[Each school of cosmetology licensed before July 1, 2011, before entering into a contract for the enrollment of a student in a program at the school of cosmetology, shall obtain the Board's approval of the contract. Thereafter, any revisions to the approved contract must be approved in accordance with section 6 of this act.]~~ (Deleted by amendment.)

Sec. 46. 1. The State Board of Cosmetology shall:

(a) On July 1, 2011, begin issuing licenses:

(1) To practice as a hair braider; and

(2) To operate an establishment for hair braiding.

(b) On or before July 1, 2011, adopt any regulations that the Board determines are necessary to enable the Board to begin issuing the licenses described in paragraph (a) on July 1, 2011.

2. As used in this section:

(a) "Establishment for hair braiding" has the meaning ascribed to it in section 3 of this act.

(b) "Hair braider" has the meaning ascribed to it in section 4 of this act.

(c) "Hair braiding" has the meaning ascribed to it in section 5 of this act.

Sec. 47. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks, including, without

limitation, the approval of contracts, as needed to carry out the provisions of this act; and

2. On July 1, 2011, for all other purposes.

TEXT OF REPEALED SECTION

644.383 Surety bond.

1. The owner of each school of cosmetology shall post with the Board a surety bond executed by the applicant as principal and by a surety company as surety. If the license for the school was issued:

(a) On or before June 30, 2005, the bond must be in the amount of $10,000; or

(b) On or after July 1, 2005, except as otherwise provided in subsections 6 and 7, the bond must be in the amount determined by the Board pursuant to subsections 2 to 5, inclusive.

2. The amount of the bond required for a school of cosmetology pursuant to paragraph (b) of subsection 1 is the total of the amounts of the bonds for all of the programs offered by the school, except that:

(a) The total amount determined pursuant to subsections 3, 4 and 5 must be rounded down to the nearest $5,000; and

(b) The amount of the bond required for the school must not be less than $10,000 or more than $400,000.

3. Except as otherwise provided in subsection 4, the amount of the bond for a program at a school of cosmetology is equal to the cost to be paid by a student for the program multiplied by the number of students who will enroll in the program each year.

4. If the length of a program at a school of cosmetology is less than 1 year, the amount of the bond for that program is equal to the amount determined pursuant to subsection 3 divided by 52 and multiplied by the number of whole or partial weeks in the program.

5. Except as otherwise provided in subsection 2, the amount of the bond required for a school of cosmetology pursuant to paragraph (b) of subsection 1 must be reduced to 12 percent of the total of the amounts calculated pursuant to subsections 3 and 4 if the school participates in:

(a) Any program of student assistance pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et. seq.; or

(b) Any other program administered by the United States Department of Education through which students at the school receive loans.

6. If a school of cosmetology has been licensed for not less than 5 years, the Board shall set the amount of the bond required pursuant to paragraph (b) of subsection 1 for the school:

(a) In the amount of $10,000, if the Board did not receive any valid complaints against the school during the immediately preceding 5 years;

(b) In an amount not less than $10,000 and not more than the amount calculated pursuant to subsections 2 to 5, inclusive, if the Board received one or more valid complaints against the school during the immediately preceding 5 years and the Board determines that each such complaint was a complaint of a minor violation of the provisions of this chapter or of any regulations adopted pursuant to this chapter; and

(c) In the amount calculated pursuant to subsections 2 to 5, inclusive, if the Board received one or more valid complaints against the school during the immediately preceding 5 years and the Board determines that any such complaint was a complaint of a major violation of the provisions of this chapter or any regulations adopted pursuant thereto.

7. The bond required for a school of cosmetology must be in the amount of $10,000 if the school:

(a) Is initially licensed on or before June 30, 2005;

(b) Has been continuously licensed since June 30, 2005; and

(c) Is relocated and obtains a license for the new location on or after July 1, 2005.

8. The bond must be in the form approved by the Board and must be conditioned upon compliance with the provisions of this chapter and upon faithful compliance with the terms and conditions of any contracts, verbal or written, made by the school to furnish instruction to any person. The bond must be to the State of Nevada in favor of every person who pays or deposits money with the school as payment for instruction. A bond continues in effect until notice of termination is given by registered or certified mail to the Board, and every bond must set forth this fact.

9. A person claiming to be injured or damaged by an act of the school may maintain an action in any court of competent jurisdiction on the bond against the school and the surety named therein, or either of them, for refund of tuition paid. Any judgment against the principal or surety in any such action must include the costs thereof and those incident to the bringing of the action, including a reasonable attorney's fee. The aggregate liability of the surety to all such persons may not exceed the sum of the bond.

10. The Board shall adopt regulations defining the terms "minor violation" and "major violation" for the purposes of subsection 6.

Assemblyman Atkinson moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 193.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 259.

The following Senate amendment was read:

Amendment No. 950.

AN ACT relating to legal services; requiring a portion of certain existing fees to be used for certain programs for legal services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain fees to be charged and collected in civil actions and provides that such fees must only be used for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment, technology and, in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs. (NRS 19.0302) **Section 1** of this bill authorizes such fees to also be used to support legal services for the indigent in counties whose population is less than 100,000. **Section 1** also provides that, in counties whose population is 100,000 or more, (currently Clark and Washoe Counties) ~~[$20]~~ **$10** of each fee, collected on the commencement or transfer of any action in district court or upon the filing of any first paper by a defendant, must be submitted to a program for legal services for the operation of programs for the indigent.

Existing law also requires certain fees to be charged and collected at the time of recording a notice of default and election to sell. (NRS 107.080) **Section 2** of this bill provides that $5 of each fee, collected at the time of recording a notice of default and election to sell, must be submitted to a program for legal services for the operation of programs for the indigent.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 19.0302 is hereby amended to read as follows:

19.0302 1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer.....$99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by the defendant or defendants.....$99

(c) On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

.....

(1) Where the stated value of the estate is $200,000 or more $352

.....

(2) Where the stated value of the estate is more than $20,000 but less than $200,000 .....$99

(3) Where the stated value of the estate is $20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto $200

(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto $1,359

.....(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as "complex" pursuant to the local rules of practice,

➥ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding.....$349

(g) On the filing of a third-party complaint, to be paid by the filing party $135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party $349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court$10

2. ~~[Fees]~~ ***Except as otherwise provided in subsection 4, fees*** collected pursuant to this section must be deposited into a special account administered by the county and maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff;

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraphs (a) and (b), to:

(1) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(5) Acquire advanced technology;

(6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court;

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district; ~~[or]~~

(8) ***In a county whose population is less than 100,000, support legal services to the indigent and to be used by the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent; or***

(9) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer ~~[all]~~ ***:***

(a) In a county whose population is 100,000 or more, an amount equal to ~~*[$20]*~~ ***$10 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the clerk of the court or county clerk pursuant to this paragraph.***

(b) All remaining fees collected pursuant to this section during the preceding month.

Sec. 2. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment;

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation; and

(d) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and

any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; and

(b) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated; and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not

receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

9. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 8, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to $500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 8 and for reasonable attorney's fees and the costs of bringing the action.

10. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of $150 for deposit in the State General Fund.

(b) A fee of ~~[$50]~~ ***$45*** for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

~~[~~**~~.~~**~~]~~ ***(c) A fee of $5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.***

11. The fees collected pursuant to ~~[this subsection]~~ ***paragraphs (a) and (b) of subsection 10*** must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account ***for Foreclosure Mediation*** as prescribed pursuant to ~~[this]~~ subsection ~~[.]~~ ***10.*** The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in ~~[this]~~ subsection ~~[.~~

~~11.]~~ ***10.***

12. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 10.

~~[12.]~~ ***13.*** As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":

(a) Means a structure that is comprised of not more than four units.

(b) Does not include any time share or other property regulated under chapter 119A of NRS.

Sec. 3. This act becomes effective on July 1, 2011.

Assemblyman Horne moved that the Assembly concur in the Senate amendment to Assembly Bill No. 259.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 268, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 833 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 8, which is attached to and hereby made a part of this report.

MARILYN KIRKPATRICK	JOHN LEE
RICHARD (SKIP) DALY	MICHAEL SCHNEIDER
LYNN STEWART	JOE HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA8.

SUMMARY—Revises provisions relating to public works. (BDR 28-740)

AN ACT relating to public works; revising provisions relating to preferences when competing for contracts for certain public works projects; requiring a contractor to replace an unacceptable subcontractor on a public work of this State without an increase in the amount of the bid; requiring a prime contractor to forfeit a portion of the amount of a contract for a public work under certain circumstances; revising the manner in which a construction manager at risk may solicit bids and select a subcontractor for a public work; revising provisions governing the selection of a construction manager at risk for preconstruction services and the construction of a public work; revising the manner in which a construction manager at risk may solicit bids and select a subcontractor for a public work; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a contract for a public work involving a design-build team is awarded by a public body based on the application of certain criteria. A design-build team may qualify for a preference in bidding on such a contract if the contractor on the design-build team has submitted proof to the State Contractors' Board that the contractor has paid certain taxes to the State for the past 5 years. (NRS 338.1389, 338.147, 338.1727, 408.3886)

Section 2 of this bill allows a person who holds a certificate of registration to engage in the practice of architecture or landscape architecture or who holds a license as a professional engineer or professional land surveyor to qualify for a preference when competing for public works if the person has submitted proof to the appropriate licensing board that the person has paid certain taxes to the State for the past 3 years. **Sections 26 and 31** of this bill allow a design-build team to receive a preference in selection as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Sections 28 and 32** of this bill allow a design-build team that has been selected as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway to receive a preference in selection for a contract only if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Section 33** of this bill allows an architect, professional engineer or professional land surveyor to receive a preference in selection for certain public works if the architect, professional engineer or professional land surveyor possesses a certificate of eligibility to receive a preference when competing for public works.

Existing law provides that a public body which selects a design-build team as a finalist in the selection process for a contract for a public work must make public specified information concerning the design-build team and its

selection. (NRS 338.1725) **Section 31** of this bill adds a similar requirement for the Department of Transportation to make public specified information concerning a design-build team and the selection of that design-build team as a finalist in the selection process for a contract for a project for the construction, reconstruction or improvement of a highway. **Section 16** of this bill requires that a public body must, after selecting but before entering into a contract with a design professional who is not a member of a design-build team, transmit certain information concerning the selection of the design profession to the licensing board that regulates the design professional. That licensing board must post the information on its Internet website.

Before a contract for a public work of this State is awarded, existing law requires a contractor to replace a subcontractor that is named in the contractor's bid for the contract if the subcontractor is not properly licensed or has been disqualified from participating in public works sponsored by the State Public Works Board. (NRS 338.13895) **Section 12** of this bill requires the contractor to replace such a subcontractor without an increase in the amount of the bid. This same requirement currently applies with respect to the replacement of a subcontractor named in a bid for a contract for a public work of a local government if the subcontractor is not properly licensed. (NRS 338.13895)

Under existing law, a contractor is required to list in his or her bid for a public work the names of certain subcontractors who will be performing work on the public work if the contractor is awarded the contract. Existing law sets forth requirements with which a prime contractor who is awarded the contract must comply to substitute a subcontractor for another subcontractor. (NRS 338.141) If a prime contractor does not comply with the requirements related to the substitution of subcontractors, **section 13** of this bill requires the prime contractor to forfeit 1 percent of the contract amount as a penalty.

Existing law also requires a contractor to include his or her name on a bid for a public work if, as the prime contractor, the contractor will perform a portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work. (NRS 338.141) **Section 13** of this bill requires a prime contractor to forfeit a specified amount as a penalty if the prime contractor substitutes a subcontractor to perform the work that the prime contractor indicated on the bid that the prime contractor or another subcontractor would perform.

In order for a subcontractor to be eligible to provide materials, equipment, work or other services on a public work for which a construction manager at risk was awarded a contract, existing law requires the subcontractor to be licensed and to be selected based on a process of competitive bidding set forth for all subcontractors on any public work in the State. (NRS 338.1699)

Sections 4 and 5 of this bill changes the manner in which a construction manager at risk selects subcontractors and sets forth specific procedures a construction manager at risk must follow when selecting subcontractors to provide materials, equipment, work or other services on a public work for which the construction manager at risk was awarded a contract.

Existing law authorizes a public body to construct a public work by selecting a construction manager at risk and sets forth certain procedures the public body must follow when selecting the construction manager at risk and entering into a contract with him or her for preconstruction services or to construct the public work. (NRS 338.169-338.1699) **Sections 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 the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***1. The State Board of Architecture, Interior Design and Residential Design shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of architecture pursuant to the provisions of chapter 623 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of registration to engage in the practice of architecture in this State:***

(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than $1,500 for each consecutive 12-month period for 36 months immediately preceding the submission of the affidavit from the certified public accountant; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of architecture that:

(1) Satisfies the requirements of NRS 623.350; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

2. The State Board of Landscape Architecture shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to the provisions of chapter 623A of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of registration to engage in the practice of landscape architecture in this State:

(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than $1,500 for each consecutive 12-month period for 36 months immediately preceding the submission of the affidavit from the certified public accountant; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of landscape architecture that:

(1) Satisfies the requirements of NRS 623A.250; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

3. The State Board of Professional Engineers and Land Surveyors shall issue a certificate of eligibility to receive a preference when competing for public works to a professional engineer or professional land surveyor who is licensed pursuant to the provisions of chapter 625 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the professional engineer or professional land surveyor has, while licensed as a professional engineer or professional land surveyor in this State:

(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than $1,500 for each consecutive 12-month period for 36 months immediately preceding the submission of the affidavit from the certified public accountant; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in engineering or land surveying that:

(1) Satisfies the requirements of NRS 625.407; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

4. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 1, paragraph (a) of subsection 2 and paragraph (a) of subsection 3, a person shall be deemed to have paid:

(a) The excise tax imposed upon an employer by NRS 363B.110 by an affiliate or parent company of the person, if the affiliate or parent company also satisfies the requirements of NRS 623.350, 623A.250 or 625.407, as applicable; and

(b) The excise tax imposed upon an employer by NRS 363B.110 by a joint venture in which the person is a participant, in proportion to the amount of interest the person has in the joint venture.

5. A design professional who has received a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 must, at the time for the renewal of his or her professional license or certificate of registration, as applicable, pursuant to chapter 623, 623A or 625 of NRS, submit to the applicable licensing board an affidavit from a certified public accountant setting forth that the design professional has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 1, paragraph (a) of subsection 2 or paragraph (a) of subsection 3, as applicable, to maintain eligibility to hold such a certificate.

6. A design professional who fails to submit an affidavit to the applicable licensing board pursuant to subsection 5 ceases to be eligible to receive a preference when competing for public works unless the design professional reapplies for and receives a certificate of eligibility pursuant to subsection 1, 2 or 3, as applicable.

7. If a design professional holds more than one license or certificate of registration, the design professional must submit a separate application for each license or certificate of registration pursuant to which the design professional wishes to qualify for a preference when competing for public works. Upon issuance, the certificate of eligibility to receive a preference when competing for public works becomes part of the design professional's license or certificate of registration for which the design professional submitted the application.

8. If a design professional who applies to a licensing board for a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 submits false information to the

licensing board regarding the required payment of taxes, the design professional is not eligible to receive a preference when competing for public works for a period of 5 years after the date on which the licensing board becomes aware of the submission of the false information.

9. The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall adopt regulations and may assess reasonable fees relating to their respective certification of design professionals for a preference when competing for public works.

10. A person or entity who believes that a design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works may challenge the validity of the certificate by filing a written objection with the public body which selected, for the purpose of providing services for a public work, the design professional who holds the certificate. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works; and

(b) Be filed with the public body not later than 3 business days after:

(1) The date on which the public body makes available to the public pursuant to subsection 3 of NRS 338.1725 the information required by that subsection, if the design-build team of which the design profession who holds the certificate is a part was selected as a finalist pursuant to NRS 338.1725;

(2) The date on which the Department of Transportation makes available to the public pursuant to subsection 3 of NRS 408.3885 the information required by that subsection, if the design-build team of which the design professional who holds the certificate is a part was selected as a finalist pursuant to NRS 408.3885; or

(3) The date on which the licensing board which issued the certificate to the design professional posted on its Internet website the information required by subsection 3 of NRS 338.155, if the design professional is identified in that information as being selected for a contract governed by NRS 338.155.

11. If a public body receives a written objection pursuant to subsection 10, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public

body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the design professional qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 3. ***1. Notwithstanding the provisions of sections 4 and 5 of this act, and subject to the provisions of subsection 2, if a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS 338.1693, the construction manager at risk may enter into a contract with a subcontractor licensed pursuant to chapter 624 of NRS to provide any of the following preconstruction services, the basis of payment for which is a negotiated price:***

(a) Assisting the construction manager at risk in identifying and selecting materials and equipment to be provided by each subcontractor;

(b) Assisting the construction manager at risk in creating a schedule for the provision of labor, materials or equipment by each subcontractor;

(c) For the purpose of enabling the construction manager at risk to establish a budget for the construction of the public work, estimating the cost of labor, materials or equipment to be provided by each subcontractor; and

(d) Providing recommendations to the construction manager at risk regarding the design for the public work, as the design pertains to the labor, materials or equipment to be provided by each subcontractor.

2. A subcontractor may not provide preconstruction services pursuant to this section in an area of work outside the field or scope of the license of the subcontractor.

Sec. 4. ***1. To be eligible to provide labor, materials or equipment on a public work, the contract for which a public body has entered into with a construction manager at risk pursuant to NRS 338.1696, a subcontractor must be:***

(a) Licensed pursuant to chapter 624 of NRS; and

(b) Qualified pursuant to the provisions of this section to submit a proposal for the provision of labor, materials or equipment on a public work.

2. Subject to the provisions of subsections 3, 4 and 5, the construction manager at risk shall determine whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment on the public work for the purposes of paragraph (b) of subsection 1.

3. After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to apply to qualify to submit a meaningful and responsive proposal for the provision of labor, materials or equipment on the public work, and not later than 21

days before the date by which such an application must be submitted, the construction manager at risk shall advertise for such applications in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

4. The criteria to be used by the construction manager at risk when determining whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment must include, and must be limited to:

(a) The monetary limit placed on the license of the applicant by the State Contractors' Board pursuant to NRS 624.220;

(b) The financial ability of the applicant to provide the labor, materials or equipment required on the public work;

(c) Whether the applicant has the ability to obtain the necessary bonding for the work required by the public body;

(d) The safety programs established and the safety records accumulated by the applicant;

(e) Whether the applicant has breached any contracts with a public body or person in this State or any other state during the 5 years immediately preceding the application;

(f) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the public work;

(g) The performance history of the applicant concerning other recent, similar public or private contracts, if any, completed by the applicant in Nevada;

(h) The principal personnel of the applicant;

(i) Whether the applicant has been disqualified from the award of any contract pursuant to NRS 338.017 or 338.13895; and

(j) The truthfulness and completeness of the application.

5. The public body or its authorized representative shall ensure that each determination made pursuant to subsection 2 is made subject to the provisions of subsection 4.

6. The construction manager at risk shall notify each applicant and the public body in writing of a determination made pursuant to subsection 2.

7. A determination made pursuant to subsection 2 that an applicant is not qualified may be appealed pursuant to NRS 338.1381 to the public body with whom the construction manager at risk has entered into a contract for the construction of the public work.

Sec. 5. ***1. If a public body enters into a contract with a construction manager at risk for the construction of a public work pursuant to NRS 338.1696, the construction manager at risk may enter into a subcontract for the provision of labor, materials and equipment necessary for the construction of the public work only as provided in this section.***

2. The provisions of this section apply only to a subcontract for which the estimated value is at least 1 percent of the total cost of the public work.

3. After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to submit a meaningful and responsive proposal, and not later than 21 days before the date by which a proposal for the provision of labor, materials or equipment by a subcontractor must be submitted, the construction manager at risk shall notify in writing each subcontractor who was determined pursuant to section 4 of this act to be qualified to submit such a proposal of a request for such proposals. A copy of the notice required pursuant to this subsection must be provided to the public body.

4. The notice required pursuant to subsection 3 must include, without limitation:

(a) A description of the design for the public work and a statement indicating where a copy of the documents relating to that design may be obtained;

(b) A description of the type and scope of labor, equipment and materials for which subcontractor proposals are being sought;

(c) The dates on which it is anticipated that construction of the public work will begin and end;

(d) The date, time and place at which a preproposal meeting will be held;

(e) The date and time by which proposals must be received, and to whom they must be submitted;

(f) The date, time and place at which proposals will be opened for evaluation;

(g) A description of the bonding and insurance requirements for subcontractors;

(h) Any other information reasonably necessary for a subcontractor to submit a responsive proposal; and

(i) A statement in substantially the following form:

Notice: For a proposal for a subcontract on the public work to be considered:

1. The subcontractor must be licensed pursuant to chapter 624 of NRS;

2. The proposal must be timely received;

3. The subcontractor must attend the preproposal meeting; and

4. The subcontractor may not modify the proposal after the date and time the proposal is received.

5. A subcontractor may not modify a proposal after the date and time the proposal is received.

6. To be considered responsive, a proposal must:

(a) Be timely received by the construction manager at risk; and

(b) Substantially and materially conform to the details and requirements included in the proposal instructions and for the finalized bid package for the public work, including, without limitation, details and requirements affecting price and performance.

7. The opening of the proposals must be attended by an authorized representative of the public body and the architect or engineer responsible for the design of the public work but is not otherwise open to the public.

8. At the time the proposals are opened, the construction manager at risk shall compile and provide to the public body or its authorized representative a list that includes, without limitation, the name and contact information of each subcontractor who submits a timely proposal and the price of the proposal submitted by the subcontractor. The list must be made available to the public upon request.

9. Not less than 10 working days after opening the proposal, the construction manager at risk shall:

(a) Evaluate the proposals and determine which proposals are responsive.

(b) Select the subcontractor who submits the proposal that the construction manager at risk determines is the best proposal. The subcontractor must be selected from among those:

(1) Who attended the preproposal meeting;

(2) Who submitted a responsive proposal; and

(3) Whose names are included on the list compiled and provided to the public body or its authorized representative pursuant to subsection 8.

(c) Inform the public body or its authorized representative which subcontractor has been selected.

10. The public body or its authorized representative shall ensure that the evaluation of proposals and selection of subcontractors are done pursuant to the provisions of this section and regulations adopted by the State Public Works Board.

11. A subcontractor selected pursuant to subsection 9 need not be selected by the construction manager at risk solely on the basis of lowest price.

12. Except as otherwise provided in subsection 13, the construction manager at risk shall enter into a subcontract with a subcontractor selected

pursuant to subsection 9 to provide the labor, materials or equipment described in the request for proposals.

13. A construction manager at risk shall not substitute a subcontractor for any subcontractor selected pursuant to subsection 9 unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or

(b) The substitution is approved by the public body after the selected subcontractor:

(1) Files for bankruptcy or becomes insolvent;

(2) After having a reasonable opportunity, fails or refuses to execute a written contract with the construction manager at risk which was offered to the selected subcontractor with the same general terms that all other subcontractors on the project were offered;

(3) Fails or refuses to perform the subcontract within a reasonable time;

(4) Is unable to furnish a performance bond and payment bond pursuant to NRS 339.025, if required for the public work; or

(5) Is not properly licensed to provide that labor or portion of the work.

14. The construction manager at risk shall make available to the public, including, without limitation, each subcontractor who submits a proposal, the final rankings of the subcontractors and shall provide, upon request, an explanation to any subcontractor who is not selected of the reasons why the subcontractor was not selected.

15. If a public work is being constructed in phases, and a construction manager at risk selects a subcontractor pursuant to subsection 9 for the provision of labor, materials or equipment for any phase of that construction, the construction manager at risk may select that subcontractor for the provision of labor, materials or equipment for any other phase of the construction without following the requirements of subsections 3 to 11, inclusive.

Sec. 6. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive;

(c) NRS 338.169 to ~~[338.1699,]~~ ***338.16985,*** inclusive ~~[:]~~ ***, and sections 3, 4 and 5 of this act;*** or

(d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 ~~[, 338.169 to 338.1699, inclusive,]~~

and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 7. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive;

(c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or

(d) NRS 338.1711 to 338.1727, inclusive ~~.~~**]** ***, and section 2 of this act.***

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 8. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive;

(c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or

(d) NRS 338.1711 to 338.1727, inclusive, and section 2 of this act.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 ***, 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act*** and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 9. ~~**[**NRS 338.1373 is hereby amended to read as follows:~~

~~338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:~~

~~(a) NRS 338.1377 to 338.139, inclusive;~~

~~(b) NRS 338.143 to 338.148, inclusive;~~

~~(c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or~~

~~(d) NRS 338.1711 to 338.1727, inclusive .~~ ~~**[**~~, and section 2 of this act.~~**]**~~

~~2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.]~~ **(Deleted by amendment.)**

Sec. 10. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 ***or section 4 of this act*** or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the State Public Works Board or the local government, the Board or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the Board or local government. At least 10 days before the date set for the hearing, the Board or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the Board or governing body may:

(a) Administer oaths;

(b) Take testimony;

(c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;

(d) Require the production of related books, papers and documents; and

(e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The Board or governing body shall issue a decision on the matter during the hearing. The decision of the Board or governing body is a final decision for purposes of judicial review.

Sec. 11. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to ~~[338.1699,]~~ ***338.16985,*** inclusive ~~[.]~~ ***, and sections 3, 4 and 5 of this act.***

Sec. 12. NRS 338.13895 is hereby amended to read as follows:

338.13895 1. The State Public Works Board shall not award a contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of the person's license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of the work, or who, at the time of the bid, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376,

➥ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor ~~[.]~~ ***with no increase in the amount of the contract or bid.***

2. A local government awarding a contract for a public work shall not award the contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of the person's license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of work,

➥ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor with no increase in the amount of the contract ~~[.]~~ ***or bid.***

3. If, after awarding the contract, but before commencement of the work, the public body or its authorized representative discovers that the person to whom the contract was awarded is not licensed, or that the contract would exceed the person's license, the public body or its authorized representative shall rescind the award of the contract and may accept the next lowest bid for that public work from a responsive bidder who was determined by the public body or its authorized representative to be a qualified bidder pursuant to NRS 338.1379 or 338.1382 without requiring that new bids be submitted.

Sec. 13. NRS 338.141 is hereby amended to read as follows:

338.141 1. Except as otherwise provided in NRS 338.1727, each bid submitted to a public body for any public work to which paragraph (a) of subsection 1 of NRS 338.1385 or paragraph (a) of subsection 1 of NRS 338.143 applies, must include:

(a) If the public body provides a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide such labor or portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work; or

(b) If the public body does not provide a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid. If the bid is submitted pursuant to this paragraph, within 2 hours after the completion of the opening of the bids, the contractors who submitted the three lowest bids must submit a list containing the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 1 percent of the prime contractor's total bid or $50,000, whichever is greater, and the number of the license issued to the first tier subcontractor pursuant to chapter 624 of NRS.

2. The lists required by subsection 1 must include a description of the labor or portion of the work which each first tier subcontractor named in the list will provide to the prime contractor.

3. A prime contractor shall include his or her name on a list required by paragraph (a) ***or (b)*** of subsection 1 if ***, as*** the prime contractor ***, the prime contractor*** will perform any of the work required to be listed pursuant to paragraph (a) ***or (b)*** of subsection 1.

4. Except as otherwise provided in this subsection, if a contractor:

(a) Fails to submit the list within the required time; or

(b) Submits a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376,

➥ the contractor's bid shall be deemed not responsive. A contractor's bid shall not be deemed not responsive on the grounds that the contractor submitted a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376 if the contractor, before the award of the contract, provides an acceptable replacement subcontractor in the manner set forth in subsection 1 or 2 of NRS 338.13895.

5. A ***prime*** contractor ~~[whose bid is accepted]~~ shall not substitute a subcontractor for any subcontractor who is named in the bid, unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change.

(b) The substitution is approved by the public body or its authorized representative. The substitution must be approved if the public body or its authorized representative determines that:

(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;

(2) The named subcontractor files for bankruptcy or becomes insolvent;

(3) The named subcontractor fails or refuses to perform his or her subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025; or

(4) The named subcontractor is not properly licensed to provide that labor or portion of the work.

(c) If the public body awarding the contract is a governing body, the public body or its authorized representative, in awarding the contract pursuant to NRS 338.1375 to 338.139, inclusive:

(1) Applies such criteria set forth in NRS 338.1377 as are appropriate for subcontractors and determines that the subcontractor does not meet that criteria; and

(2) Requests in writing a substitution of the subcontractor.

6. ***If a prime contractor substitutes a subcontractor for any subcontractor who is named in the bid without complying with the provisions of subsection 5, the prime contractor shall forfeit, as a penalty to the public body that awarded the contract, an amount equal to 1 percent of the total amount of the contract.***

7. If a ***prime*** contractor ~~[indicates]~~ ***indicated*** pursuant to subsection ~~[1]~~ ***3*** that he or she ~~[will]~~ ***would*** perform a portion of work on the public work and ~~[thereafter requests to substitute]~~ ***, after the submission of the bid, substitutes*** a subcontractor to perform such work, the ***prime*** contractor shall ~~[provide to the public body a written explanation in the form required by the public body which contains the reasons that:~~

~~(a) A subcontractor was not originally contemplated to be used on that portion of the public work; and~~

~~(b) The substitution is in the best interest of the public body.~~

~~7.]~~ ***forfeit as a penalty to the public body that awarded the contract, the lesser of, and excluding any amount of the contract that is attributable to change orders:***

(a) An amount equal to 2.5 percent of the total amount of the contract; or

(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the prime contractor indicated pursuant to subsection 3 that he or she would perform on the public work.

8. As used in this section:

(a) "First tier subcontractor" means a subcontractor who contracts directly with a prime contractor to provide labor, materials or services for a construction project.

(b) "General terms" means the terms and conditions of a contract that set the basic requirements for a public work and apply without regard to the particular trade or specialty of a subcontractor, but does not include any provision that controls or relates to the specific portion of the public work that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

Sec. 14. NRS 338.142 is hereby amended to read as follows:

338.142 1. A person who bids on a contract may file a notice of protest regarding the awarding of the contract with the authorized representative designated by the public body within 5 business days after the date the ~~[bids were opened]~~ ***recommendation to award a contract is issued*** by the public body or its authorized representative.

2. The notice of protest must include a written statement setting forth with specificity the reasons the person filing the notice believes the applicable provisions of law were violated.

3. A person filing a notice of protest may be required by the public body or its authorized representative, at the time the notice of protest is filed, to post a bond with a good and solvent surety authorized to do business in this state or submit other security, in a form approved by the public body, to the public body who shall hold the bond or other security until a determination is made on the protest. A bond posted or other security submitted with a notice of protest must be in an amount equal to the lesser of:

(a) Twenty-five percent of the total value of the bid submitted by the person filing the notice of protest; or

(b) Two hundred fifty thousand dollars.

4. A notice of protest filed in accordance with the provisions of this section operates as a stay of action in relation to the awarding of any contract until a determination is made by the public body on the protest.

5. A person who makes an unsuccessful bid may not seek any type of judicial intervention until the public body has made a determination on the protest and awarded the contract.

6. Neither a public body nor any authorized representative of the public body is liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who makes a bid, whether or not the person files a notice of protest pursuant to this section.

7. If the protest is upheld, the bond posted or other security submitted with the notice of protest must be returned to the person who posted the bond or submitted the security. If the protest is rejected, a claim may be made against the bond or other security by the public body in an amount equal to the expenses incurred by the public body because of the unsuccessful protest. Any money remaining after the claim has been satisfied must be returned to the person who posted the bond or submitted the security.

Sec. 15. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.

(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to ~~[~~338.1699,~~]~~ ***338.16985,*** inclusive ~~[.]~~ ***, and sections 3, 4 and 5 of this act.***

Sec. 16. NRS 338.155 is hereby amended to read as follows:

338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

(a) Must set forth:

(1) The specific period within which the public body must pay the design professional.

(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).

(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).

(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

(e) Except as otherwise provided in this paragraph, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such

liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.

3. ***A public body shall not enter into a contract with a design professional who is not a member of a design-build team for the provision of services in connection with a public work until 3 days after the public body has transmitted the information relating to the selection of the design professional to the licensing board that regulates the design professional, including, without limitation, the name of the public body, the name of the design professional, whether the design professional possesses a certificate of eligibility to receive a preference when competing for public works and a brief description of the project and services the design professional was selected for, and the licensing board has posted such information on its Internet website. A licensing board shall post any information received pursuant to this subsection within 1 business day after receiving such information.***

4. As used in this section, "agents" means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.

Sec. 17. ~~[NRS 338.155 is hereby amended to read as follows:~~

~~338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:~~

~~(a) Must set forth:~~

~~(1) The specific period within which the public body must pay the design professional.~~

~~(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.~~

~~(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).~~

~~(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.~~

~~(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).~~

~~(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.~~

~~(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.~~

~~(e) Except as otherwise provided in this paragraph, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.~~

~~2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.~~

~~3. A public body shall not enter into a contract with a design professional who is not a member of a design build team for the provision of services in connection with a public work until 3 days after the public body has transmitted the information relating to the selection of the design professional to the licensing board that regulates the design professional, including, without limitation, the name of the public body, the name of the design professional [~~, whether the design professional possesses a certificate of

~~eligibility to receive a preference when competing for public works~~**]** ~~and a brief description of the project and services the design professional was selected for, and the licensing board has posted such information on its Internet website. A licensing board shall post any information received pursuant to this subsection within 1 business day after receiving such information.~~

~~4. As used in this section, "agents" means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.~~**] (Deleted by amendment.)**

Sec. 18. NRS 338.169 is hereby amended to read as follows:

338.169 A public body may construct a public work by:

1. Selecting a construction manager at risk pursuant to the provisions of NRS 338.1691 to 338.1696, inclusive; and

2. Entering into separate contracts with a construction manager at risk:

(a) For preconstruction services, including, without limitation:

(1) Assisting the public body in determining whether scheduling or **[**~~design~~**]** ***constructability*** problems exist that would delay the construction of the public work;

(2) Estimating the cost of the labor and material for the public work; and

(3) Assisting the public body in determining whether the public work can be constructed within the public body's budget; and

(b) To construct the public work.

Sec. 19. NRS 338.1691 is hereby amended to read as follows:

338.1691 To qualify to enter into contracts with a public body for preconstruction services and to construct a public work, a construction manager at risk must:

1. Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for **[**~~statements of qualifications~~**]** ***proposals*** pursuant to NRS 338.1692;

2. Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333;

3. Be licensed as a contractor pursuant to chapter 624 of NRS; and

4. If the project is for the **[**~~design~~**]** ***construction*** of a public work of the State, be qualified to bid on a public work of the State pursuant to NRS 338.1379.

Sec. 20. NRS 338.1692 is hereby amended to read as follows:

338.1692 1. A public body ***or its authorized representative*** shall advertise for **[**~~statements of qualifications~~**]** ***proposals*** for a construction manager at risk in a newspaper qualified pursuant to chapter 238 of NRS that

is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

2. A request for ~~[a statement of qualifications]~~ ***proposals*** published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work;

(b) An estimate of the cost of construction;

(c) A description of the work that the public body expects a construction manager at risk to perform;

(d) The dates on which it is anticipated that the separate phases of the preconstruction and construction of the public work will begin and end;

(e) The date by which ~~[statements of qualifications]~~ ***proposals*** must be submitted to the public body;

(f) If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a ~~[statement of qualifications;]~~ ***proposal;***

(g) The name, title, address and telephone number of a person employed by the public body that an applicant may contact for further information regarding the public work; ~~[and]~~

(h) A list of the selection criteria and relative weight of the selection criteria that will be used to evaluate ~~[statements of qualifications.]~~ ***proposals; and***

(i) A notice that the proposed form of the contract to assist in the preconstruction of the public work or to construct the public work, including, without limitation, the terms and general conditions of the contract, is available from the public body.

3. A ~~[statement of qualifications]~~ ***proposal*** must include, without limitation:

(a) An explanation of the experience that the applicant has with projects of similar size and scope ~~[.]~~ ***in both the public and private sectors, including, without limitation, an explanation of the experience that the applicant has in assisting in the design of such projects and an explanation of the experience that the applicant has in such projects in Nevada;***

(b) The contact information for references who have knowledge of the background, character and technical competence of the applicant;

(c) ~~[The applicant's preliminary proposal for managing the preconstruction and construction of the public work;~~

~~(d)]~~ Evidence of the ability of the applicant to obtain the necessary bonding for the work to be required by the public body;

~~[(e)]~~ ***(d)*** Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law; ~~[and]~~

~~[(f)]~~ ***(e)*** A statement of whether the applicant has been:

(1) Found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause ~~[.]~~ ***, during the 5 years immediately preceding the date of the advertisement for proposals;*** and

(2) Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333 ~~[.]~~ ***;***

(f) The professional qualifications and experience of the applicant, including, without limitation, the resume of any employee of the applicant who will be managing the preconstruction and construction of the public work;

(g) The safety programs established and the safety records accumulated by the applicant;

(h) Evidence that the applicant is licensed as a contractor pursuant to chapter 624 of NRS;

(i) The proposed plan of the applicant to manage the preconstruction and construction of the public work which sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(j) If the project is for the design of a public work of the State, evidence that the applicant is qualified to bid on a public work of the State pursuant to NRS 338.1379.

Sec. 21. NRS 338.1693 is hereby amended to read as follows:

338.1693 1. The public body ***or its authorized representative*** shall appoint a panel consisting of at least three members ***, at least two of whom must have experience in the construction industry,*** to rank the ~~[statements of qualifications]~~ ***proposals*** submitted to the public body by evaluating the ~~[statements of qualifications]~~ ***proposals*** as required pursuant to subsections 2 and 3.

2. The panel shall rank the ~~[statements of qualifications]~~ ***proposals*** by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) ~~[Conducting an evaluation of the qualifications of each applicant based on the factors and relative weight assigned to each factor that the public body specified in the request for statements of qualifications advertised pursuant to NRS 338.1692.]~~ ***Evaluating and assigning a score to each of the proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for proposals.***

3. When ranking the ~~[statements of qualifications,]~~ ***proposals,*** the panel shall assign a relative weight of 5 percent to the possession of a certificate of

eligibility to receive a preference in bidding on public works. ***If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.***

4. After the panel ranks the ~~[statements of qualifications,]~~ ***proposals,*** the public body ***or its authorized representative*** shall ~~[:~~

~~(a) Make available to the public the rankings of the applicants; and~~

~~(b) Except]~~ ***, except*** as otherwise provided in subsection 5, select at least the two but not more than the five applicants ~~[that the panel determined to be most qualified as finalists to submit final proposals to the public body pursuant to NRS 338.1694.]~~ ***whose proposals received the highest scores for interviews. During the interview process, the public body or its authorized representative may require the applicants to submit a preliminary proposed amount of compensation for managing the preconstruction and construction of the public work, but in no event shall the proposed amount of compensation exceed 20 percent of the scoring for the selection of the most qualified applicant. After conducting such interviews, the panel shall rank the applicants by using a ranking process that is separate from the process used to rank proposals pursuant to subsection 2 and is based only on information submitted during the interview process. The score to be given for the proposed amount of compensation, if any, must be calculated by dividing the lowest of all the proposed amounts of compensation by the applicant's proposed amount of compensation multiplied by the total possible points available to each applicant.***

5. If the public body did not receive at least two ~~[statements of qualifications from applicants that the panel determines to be qualified pursuant to this section and NRS 338.1691,]~~ ***proposals,*** the public body may not contract with a construction manager at risk.

6. Upon receipt of the final rankings of the applicants from the panel, the public body or its authorized representative shall enter into negotiations with the most qualified applicant determined pursuant to subsections 2, 3 and 4 for a contract for preconstruction services, unless the public body required the submission of a proposed amount of compensation, in which case the proposed amount of compensation submitted by the applicant must be the amount offered for the contract. If the public body or its authorized representative is unable to negotiate a contract with the most qualified applicant for an amount of compensation that the public body or its authorized representative and the most qualified applicant determine to be fair and reasonable, the public body or its authorized representative shall terminate negotiations with that applicant. The public body or its

authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. The public body or its authorized representative shall make available to all applicants and the public the final rankings of the applicants and shall provide, upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.

Sec. 22. NRS 338.1696 is hereby amended to read as follows:

338.1696 1. If a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS ~~[338.1695,]~~ ***338.1693,*** after the public body has finalized the design for the public work, ***or any portion thereof sufficient to determine the provable cost of that portion,*** the public body shall enter into negotiations with the construction manager at risk for a contract to construct the public work ***or the portion thereof*** for the public body for:

(a) The cost of the work, plus a fee, with a guaranteed maximum price;

(b) A fixed price; or

(c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work ~~[.]~~ ***or portion thereof.***

2. If the public body is unable to negotiate a satisfactory contract with the construction manager at risk to construct the public work ~~[,]~~ ***or portion thereof,*** the public body ~~[:~~

~~(a) Shall]~~ ***shall*** terminate negotiations with that applicant ~~[;]~~ and ***:***

~~[(b)]~~ ***(a)*** May award the contract for the public work:

(1) If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.

(2) If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive ~~[.]~~ ***; and***

(b) Shall accept a bid to construct the public work from the construction manager at risk with whom the public body entered into a contract for preconstruction services.

Sec. 23. NRS 338.1698 is hereby amended to read as follows:

338.1698 A contract awarded to a construction manager at risk pursuant to NRS ~~[338.1695 or]~~ 338.1696:

1. Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

2. Must specify a date by which performance of the work required by the contract must be completed.

3. May set forth the terms by which the construction manager at risk agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the construction manager at risk.

4. Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.

5. May include such additional provisions as may be agreed upon by the public body and the construction manager at risk.

Sec. 24. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to **[**~~338.1699,~~**]** ***338.16985,*** inclusive, ***and sections 3, 4 and 5 of this act,*** a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds $100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work **[**~~:~~

~~(a) Is the construction of a park and appurtenances thereto, the rehabilitation or remodeling of a public building, or the construction of an addition to a public building; or~~

~~(b) Has~~**]** ***has*** an estimated cost which exceeds **[**~~$10,000,000.~~**]** ***$5,000,000.***

Sec. 25. NRS 338.1718 is hereby amended to read as follows:

338.1718 1. A construction manager as agent:

(a) Must:

(1) Be a contractor licensed pursuant to chapter 624 of NRS;

(2) Hold a certificate of registration to practice architecture, interior design or residential design pursuant to chapter 623 of NRS; or

(3) Be licensed as a professional engineer pursuant to chapter 625 of NRS.

(b) May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent who enters into a contract with a public body pursuant to this section may not **[**~~take~~**]** ***:***

(1) Take part in the design or construction of the public work **[**~~.~~**]** ***; or***

(2) Act as an agent of the public body to select a subcontractor if the work to be performed by the subcontractor is part of a larger public work.

2. A contract between a public body and a construction manager as agent is not required to be awarded by competitive bidding.

Sec. 26. NRS 338.1725 is hereby amended to read as follows:

338.1725 1. The public body shall select at least two but not more than four finalists from among the design-build teams that submitted preliminary proposals. If the public body does not receive at least two preliminary proposals from design-build teams that the public body determines to be qualified pursuant to this section and NRS 338.1721, the public body may not contract with a design-build team for the design and construction of the public work.

2. The public body shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 338.1721; ~~[and]~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team; and

(4) The proposed plan of the design-build team to manage the design and construction of the public work that sets forth in detail the ability of the design-build team to design and construct the public work ~~[.]~~ ***; and***

(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.

3. After the selection of finalists pursuant to this section, the public body shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and ~~[the rankings of the design-build teams who submitted preliminary proposals.]~~ ***identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.***

Sec. 27. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body ~~[, at a regularly scheduled meeting,]~~ ***or its authorized representative*** shall ~~[:~~

~~(a) Select the final proposal, using]~~ ***enter into negotiations with the most qualified applicant, as determined pursuant to*** the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected **.** ~~[; or~~

~~(b) Reject all the final proposals.]~~ ***If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public***

body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. If a public body selects a final proposal and awards a design-build contract pursuant to ~~[paragraph (a) of]~~ subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the

public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 28. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of ***both*** a certificate of eligibility to receive a preference in bidding on public works ***by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team,*** and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to ***a*** preference in bidding on public ***works, or a preference when competing for public*** works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and

shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body or its authorized representative shall enter into negotiations with the most qualified applicant, as determined pursuant to the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected. If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. If a public body selects a final proposal and awards a design-build contract pursuant to subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 29. NRS 338.485 is hereby amended to read as follows:

338.485 1. A person may not waive or modify a right, obligation or liability set forth in the provisions of NRS 338.400 to 338.645, inclusive.

2. A condition, stipulation or provision in a contract or other agreement that:

(a) Requires a person to waive a right set forth in the provisions of NRS 338.400 to 338.645, inclusive; ~~[or]~~

(b) Relieves a person of an obligation or liability imposed by the provisions of NRS 338.400 to 338.645, inclusive ~~[.]~~ ***;***

(c) Requires a contractor to waive, release or extinguish a claim or right for damages or an extension of time that the contractor may otherwise possess or acquire as a result of a delay that is:

(1) So unreasonable in length as to amount to an abandonment of the public work;

(2) Caused by fraud, misrepresentation, concealment or other bad faith by the public body;

(3) Caused by active interference by the public body; or

(4) Caused by a decision by the public body to significantly add to the scope or duration of the public work; or

(d) Requires a contractor or public body to be responsible for any consequential damages suffered or incurred by the other party that arise

from or relate to a contract for a public work, including, without limitation, rental expenses or other damages resulting from a loss of use or availability of the public work, lost income, lost profit, lost financing or opportunity, business or reputation, and loss of management or employee availability, productivity, opportunity or services,

➥ ***is against public policy and*** is void ~~.~~ ***and unenforceable.***

3. The provisions of subsection 2 do not prohibit the use of a liquidated damages clause which otherwise satisfies the requirements of law.

Sec. 30. NRS 408.3883 is hereby amended to read as follows:

408.3883 1. The Department shall advertise for preliminary proposals for the design and construction of a project by a design-build team in a newspaper of general circulation in this State.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the proposed project;

(b) Separate estimates of the costs of designing and constructing the project;

(c) The dates on which it is anticipated that the separate phases of the design and construction of the project will begin and end;

(d) The date by which preliminary proposals must be submitted to the Department, which must not be less than 30 days after the date that the request for preliminary proposals is first published in a newspaper pursuant to subsection 1; and

(e) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the project may obtain the information necessary to submit a proposal, including, without limitation, the information set forth in subsection 3.

3. The Department shall maintain at the time and place set forth in the request for preliminary proposals the following information for inspection by a design-build team desiring to submit a proposal for the project:

(a) The extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the project that the Department determines to be necessary;

(b) A list of the requirements set forth in NRS 408.3884;

(c) A list of the factors that the Department will use to evaluate design-build teams who submit a proposal for the project, including, without limitation:

(1) The relative weight to be assigned to each factor pursuant to NRS 408.3886; and

(2) A disclosure of whether the factors that are not related to cost are, when considered as a group, more or less important in the process of evaluation than the factor of cost;

(d) Notice that a design-build team desiring to submit a proposal for the project must include with its proposal the information used by the Department to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 408.3885 and a description of that information;

(e) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.1389 or 338.147 ***and whose members who hold a certificate of registration to practice architecture or a license as a professional engineer and who hold a certificate of eligibility to receive a preference when competing for public works issued pursuant to section 2 of this act*** should submit a copy of ~~[the]~~ ***each*** certificate of eligibility with its proposal; and

(f) A statement as to whether a ~~[bidding]~~ design-build team that is selected as a finalist pursuant to NRS 408.3885 but is not awarded the design-build contract pursuant to NRS 408.3886 will be partially reimbursed for the cost of preparing a final proposal or best and final offer, or both, and, if so, an estimate of the amount of the partial reimbursement.

Sec. 31. NRS 408.3885 is hereby amended to read as follows:

408.3885 1. The Department shall select at least three but not more than five finalists from among the design-build teams that submitted preliminary proposals. If the Department does not receive at least three preliminary proposals from design-build teams that the Department determines to be qualified pursuant to this section and NRS 408.3884, the Department may not contract with a design-build team for the design and construction of the project.

2. The Department shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 408.3884; ~~[and]~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team;

(4) The proposed plan of the design-build team to manage the design and construction of the project that sets forth in detail the ability of the design-build team to design and construct the project; and

(5) The degree to which the preliminary proposal is responsive to the requirements of the Department for the submittal of a preliminary proposal ~~[.]~~ ***; and***

(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.

3. After the selection of finalists pursuant to this section, the Department shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.

Sec. 32. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the possession of ***both*** a certificate of eligibility to receive a preference in bidding on public works ***by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team,*** and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of

this subsection relating to ***a*** preference in bidding on public works ~~[,]~~ ***or a preference when competing for public works,*** those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 33. NRS 625.530 is hereby amended to read as follows:

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, ***and section 2 of this act*** and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed $35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of this chapter or chapter 623 of NRS.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees. If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him or her, the public agency may terminate negotiations and select another engineer, land surveyor or architect. ***Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a professional engineer, professional land surveyor or registered architect pursuant to this subsection, the public agency shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference when competing for public works. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.***

Sec. 34. NRS 338.1694, 338.1695 and 338.1699 are hereby repealed.

Sec. 35. 1. The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall, before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

2. The State Public Works Board shall, as soon as practicable after the effective date of this section, adopt regulations governing the acts required by subsection 9 of section 5 of this act.

Sec. 36. 1. The State Public Works Board and each local government that awards a contract pursuant to NRS 338.1727, as amended by section 28 of this act, or NRS 408.3886, as amended by section 32 of this act, or selects a professional engineer, professional land surveyor or registered architect pursuant to NRS 625.530, as amended by section 33 of this act, shall, on or before October 1 of the year in which it awards such a contract or makes such a selection, submit to the Director of the Legislative Counsel Bureau a report detailing those contracts and selections on the form prescribed by the Committee on Local Government Finance.

2. Before August 1, 2011, the Committee on Local Government Finance created pursuant to NRS 354.105 shall prescribe a form for the report described in subsection 1, which must include, without limitation:

(a) The total number of contracts and selections described in subsection 1 awarded and made by the State Public Works Board or local government during the year to which the report pertains; and

(b) A description of each such contract or selection, including, without limitation:

(1) The name of the person or entity who was selected or to whom the contract was awarded.

(2) The particular type of goods or services involved in the contract or selection.

(3) The dollar amount of the contract or selection.

(4) Whether the person or entity who was selected or to whom the contract was awarded was awarded the contract or selected as a result of the person or entity possessing a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 of section 2 of this act.

(5) If the person or entity who was selected or to whom the contract was awarded did not possess a certificate for eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 of section 2 of this act, the number of persons or entities that did possess such a certificate that bid on the contract or were considered for selection.

Sec. 37. The provisions of sections 4 and 5 of this act apply only to contracts entered into on or after July 1, 2011.

Sec. 38. 1. This section and sections 1, 3 to 6, inclusive, 10 to 15, inclusive, 18 to 25, inclusive, 27, 29, 34, 35 and 37 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2011, for all other purposes.

2. Sections 2, 7, 16, 26, 28, 30 to 33, inclusive, and 36 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On October 1, 2011, for all other purposes.

3. Section 8 of this act becomes effective on July 1, 2013.

[~~4. Sections 2, 26, 28, 30 to 33, inclusive, and 36 of this act expire by limitation on September 30, 2013.~~

~~5. Sections 9 and 17 of this act become effective on October 1, 2013.~~**]**

TEXT OF REPEALED SECTIONS

NRS 338.1694 Final proposals: Requests; requirements.

1. After the finalists are selected pursuant to paragraph (b) of subsection 4 of NRS 338.1693, the public body shall provide to each finalist a request for final proposals. The request for final proposals must:

(a) Set forth the date by which final proposals must be submitted to the public body;

(b) Set forth the proposed forms of the contract to assist in the preconstruction of the public work and the contract to construct the public work that include, without limitation, the proposed terms and general conditions of the contracts; and

(c) Set forth the selection criteria and relative weight of the selection criteria that will be used to evaluate the final proposals.

2. A final proposal must include, without limitation:

(a) The professional qualifications and experience of the applicant, including, without limitation, the resumes of any employees of the applicant who will be managing the preconstruction and construction of the public work;

(b) The performance history of the applicant concerning other recent, similar projects completed by the applicant, if any;

(c) The safety programs established and the safety records accumulated by the applicant;

(d) The proposed plan of the applicant to manage the preconstruction and construction of the public work, which plan sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(e) A proposed plan of the applicant for the selection of any necessary subcontractors.

NRS 338.1695 Ranking of applicants based on final proposals and interviews; negotiations with certain applicants for contract for preconstruction services; availability to applicants and public of certain information.

1. The panel appointed by the public body pursuant to NRS 338.1693 shall evaluate and assign a score to each of the final proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for final proposals. The panel shall interview the two or three applicants whose final proposals received the highest scores. After conducting such interviews, the panel shall rank the applicants based on the final proposals and interviews, which must be given equal weight.

2. Upon receipt of the final rankings of the applicants from the panel, the public body shall enter into negotiations with the most qualified applicant determined pursuant to subsection 1 for a contract for preconstruction services. If the public body is unable to negotiate a contract with the most qualified applicant at an amount of compensation that the public body and the most qualified applicant determine to be fair and reasonable, the public body shall terminate negotiations with that applicant. The public body may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached or a determination is made by the public body to reject all applicants.

3. The public body shall make available to the applicants and the public the results of the evaluations of final proposals and interviews conducted pursuant to subsection 1 and the final rankings of the applicants.

NRS 338.1699 Subcontractors on public works for which contractor at risk was awarded contract: Eligibility; submission of list to public body.

1. To be eligible to provide materials, equipment, work or other services on a public work for which a construction manager at risk was awarded a contract pursuant to NRS 338.1696, a subcontractor must be:

(a) Licensed pursuant to chapter 624 of NRS; and

(b) Selected by the construction manager at risk based on the process of competitive bidding set forth in the applicable provisions of NRS 338.1373 to 338.148, inclusive.

2. A construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to NRS 338.1696 shall submit to the public body that awarded the contract a list containing the names of each subcontractor with whom the construction manager at risk intends to enter into a contract for the provision of materials, equipment, work or other services on the public work.

Assemblywoman Kirkpatrick moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 268.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 365, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 639 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 13, which is attached to and hereby made a part of this report.

APRIL MASTROLUCA
OLIVIA DIAZ
RICHARD MCARTHUR
Assembly Conference Committee

MO DENIS
VALERIE WIENER
GREG BROWER
Senate Conference Committee

Conference Amendment No. CA13.

SUMMARY—Eliminates certain mandates pertaining to school districts and public schools in this State. (BDR 34-184)

AN ACT relating to education; eliminating certain requirements imposed by statute on school districts and public schools in this State; ~~[requiring]~~ **revising the requirements for** the board of trustees of certain school districts to adopt a pilot program to provide a program of small learning communities in certain middle schools, junior high schools and high schools; **extending the effective date for the implementation of academic plans for pupils enrolled in middle school or junior high school;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the board of trustees of each school district is required to adopt a policy to engage certain administrators in the classroom. (NRS 391.235) **Section 21.5** of this bill makes the adoption of such a policy permissive rather than mandatory.

Under existing federal law, a school which is served under Title I and which is identified as needing improvement pursuant to the federal law is required to develop and implement a school improvement plan. (20 U.S.C. § 6316(b)(3)) Also under existing federal law, a school district which is served under Title I and which is identified as needing improvement pursuant to the federal law is required to develop and implement a plan for improvement for the school district. (20 U.S.C. § 6316(c)(7)) Under existing state law, the board of trustees of each school district is required to prepare a plan to improve the achievement of pupils enrolled in the school district. (NRS 385.348) ~~[Also under existing law, the principal of each public school is required to prepare a plan to improve the achievement of pupils enrolled in the school.]~~ This bill repeals ~~[both of those state statutory requirements relating to plans for improvement.]~~ **the state statutory requirement for a school district to prepare a plan for improvement.**

Under existing law, certain school districts in this State are required to adopt a policy providing for the creation of small learning communities for certain pupils enrolled in middle school or junior high school and high school. (NRS 388.171, 388.215) **Section 21.3** of this bill requires the board of trustees of each school district which includes at least one high school with an enrollment of 1,200 pupils or more to adopt a pilot program of small learning communities for implementation in at least 50 percent of those high schools. **Section 36.3** of this bill requires the board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more to adopt a pilot program of small learning communities for pupils in their initial year of enrollment for implementation in at least 50 percent of those schools. **Sections 36.5 and 38**

of this bill require both pilot programs to be implemented beginning with the 2013-2014 school year.

Under existing law, effective on July 1, 2011, an academic plan must be developed for each pupil enrolled in middle school or junior high school in accordance with a policy adopted by the board of trustees of the school district. **Section 36.5** of this bill extends the date for adoption of such a policy to January 1, 2013, for implementation beginning with the 2013-2014 school year.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 385.359 is hereby amended to read as follows:

385.359 1. The Bureau shall contract with a person or entity to:

(a) Review and analyze, in accordance with the standards prescribed by the Committee pursuant to subsection 2 of NRS 218E.615, the:

(1) Annual report of accountability prepared by:

(I) The State Board pursuant to NRS 385.3469; and

(II) The board of trustees of each school district pursuant to NRS 385.347.

(2) Plan to improve the achievement of pupils prepared by :

(I) The ~~*[the]*~~ State Board pursuant to NRS 385.34691 ; ***and***

(II) ~~**[**The board of trustees of each school district pursuant to NRS 385.348; and~~

~~(III)**]**~~ Each school pursuant to NRS 385.357 identified by the Bureau for review, if any, or if such a plan has not been prepared, the ~~*[, any]*~~ turnaround plan for the schools identified by the Bureau, if any, implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, as applicable.

(b) Submit a written report to and consult with the State Board and the Department regarding any methods by which the State Board may improve the accuracy of the report of accountability required pursuant to NRS 385.3469 and the plan to improve the achievement of pupils required pursuant to NRS 385.34691, and the purposes for which the report and plan to improve are used.

(c) Submit a written report to and consult with each school district regarding any methods by which the district may improve the accuracy of the report required pursuant to subsection 2 of NRS 385.347 ~~**[**and the plan to improve the achievement of pupils required pursuant to NRS 385.348,**]**~~ and the purposes for which the report ~~**[**and plan to improve are**]**~~ ***is*** used.

(d) If requested by the Bureau, submit a written report to and consult with individual schools identified by the Bureau regarding any methods by which the school may improve the accuracy of the information required to be reported for the school pursuant to subsection 2 of NRS 385.347 and the:

(1) Plan to improve the achievement of pupils required pursuant to NRS 385.357;

(2) Turnaround plan for the school implemented pursuant to NRS 385.37603; or

(3) ~~[(2)]~~ Plan for restructuring the school implemented pursuant to NRS 385.37607,

➥ whichever is applicable for the school.

(e) Submit written reports and any recommendations to the Committee and the Bureau concerning:

(1) The effectiveness of the provisions of NRS 385.3455 to 385.391, inclusive, in improving the accountability of the schools of this State;

(2) The status of each school district that is designated as demonstrating need for improvement pursuant to NRS 385.377 and each school that is designated as demonstrating need for improvement pursuant to NRS 385.3623; and

(3) Any other matter related to the accountability of the public schools of this State, as deemed necessary by the Bureau.

2. The consultant with whom the Bureau contracts to perform the duties required pursuant to subsection 1 must possess the experience and knowledge necessary to perform those duties, as determined by the Committee.

Sec. 4. (Deleted by amendment.)

Sec. 4.5. **(Deleted by amendment.)**

Sec. 5. (Deleted by amendment.)

Sec. 5.5. **(Deleted by amendment.)**

Sec. 6. (Deleted by amendment.)

Sec. 6.5. **(Deleted by amendment.)**

Sec. 7. (Deleted by amendment.)

Sec. 7.5. **(Deleted by amendment.)**

Sec. 8. (Deleted by amendment.)

Sec. 8.5. **(Deleted by amendment.)**

Sec. 9. NRS 385.3785 is hereby amended to read as follows:

385.3785 1. The Commission shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) The ~~[plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;~~

~~(3) The]~~ plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation, the turnaround plan for the school implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, whichever is ~~*[if]*~~ applicable for the school; and

~~[(4)]~~ ***(3)*** Any other information that the Commission considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by public schools and consortiums of public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both, or that are linked to the turnaround plan for the school or the plan for restructuring the school, if applicable, or for innovative programs, or both. The Commission shall not award a grant of money from the Account for a program to provide full-day kindergarten. All public schools and consortiums of public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the schools have made adequate yearly progress or failed to make adequate yearly progress. A public school or a consortium of public schools selected for participation may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from public schools and consortiums of public schools that desire to participate in the program.

(e) Establish guidelines for the review, evaluation and approval of applications for grants of money from the Account, including, without limitation, consideration of the list of priorities of public schools provided by the Department pursuant to subsection 6. To ensure consistency in the review, evaluation and approval of applications, if the guidelines authorize the review and evaluation of applications by less than the entire membership of the Commission, money must not be allocated from the Account for a grant until the entire membership of the Commission has reviewed and approved the application for the grant.

(f) Prescribe accountability measures to be carried out by a public school that participates in the program if that public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of schools that participate; and

(2) Conditions for schools that do not meet the grant criteria but desire to continue participation in the program and receive money from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

(g) Determine the amount of money that is available from the Account for those public schools and consortiums of public schools that are selected to participate in the program.

(h) Allocate money to public schools and consortiums of public schools from the Account. Allocations must be distributed not later than August 15 of each year.

(i) Establish criteria for public schools and consortiums of public schools that participate in the program and receive an allocation of money from the Account to evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria ~~*[, including, without limitation, if applicable for the school, measurable criteria]*~~ identified in , as applicable, the:

(I) Plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(II) Turnaround plan for the school implemented pursuant to NRS 385.37603; or

(III) ~~*[(II)]*~~ Plan for restructuring the school implemented pursuant to NRS 385.37607;

(2) If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff; ~~*[and]*~~

(3) The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the school is meeting the measurable objectives identified in the plan; and

(4) The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the Commission shall make allocations of money to public schools and consortiums of public schools for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for pupils. In

making such allocations, the Commission shall comply with the requirements of this section.

3. An application submitted pursuant to this section must include a written statement which:

(a) Indicates whether the public school or consortium of public schools is submitting the application for the continuation of an existing program or for the establishment of a new program; and

(b) Identifies all other sources of money that the public school or consortium of public schools has requested or received for the continuation or establishment of:

(1) The program for which the application is submitted; or

(2) A substantially similar program.

4. The Commission shall ensure, to the extent practicable, that grants of money provided pursuant to this section reflect the economic and geographic diversity of this State.

5. If a public school or consortium of public schools that receives money pursuant to subsection 1 or 2:

(a) Does not meet the criteria for effectiveness as prescribed in paragraph (i) of subsection 1;

(b) Does not, as a result of the program for which the grant of money was awarded, show improvement in the achievement of pupils, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379; or

(c) Does not implement the program for which the money was received, as determined in an audit conducted pursuant to subsection 4 of NRS 385.3789 or an evaluation conducted pursuant to subsection 3 of NRS 385.379,

➥ over a 2-year period, the Commission may consider not awarding future allocations of money to that public school or consortium of public schools.

6. On or before July 1 of each year, the Department shall provide a list of priorities of public schools that indicates:

(a) The adequate yearly progress status of schools in the immediately preceding year; and

(b) The public schools that are considered Title I eligible by the Department based upon the poverty level of the pupils enrolled in a school in comparison to the poverty level of the pupils in the school district as a whole,

➥ for consideration by the Commission in its development of procedures for the applications.

7. A public school, including, without limitation, a charter school, or a consortium of public schools may request assistance from the school district in which the school is located in preparing an application for a grant of money pursuant to this section. A school district shall assist each public school or consortium of public schools that requests assistance pursuant to this subsection to ensure that the application of the school:

(a) Is based directly upon, as applicable, ~~[if applicable for the school,]~~ the:

(1) Plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;

(2) Turnaround plan for the school implemented pursuant to NRS 385.37603; or

(3) ~~[(2)]~~ Plan for restructuring the school implemented pursuant to NRS 385.37607;

(b) Is developed in accordance with the criteria established by the Commission; and

(c) Is complete and complies with all technical requirements for the submission of an application.

➥ A school district may make recommendations to the individual schools and consortiums of public schools. Such schools and consortiums of public schools are not required to follow the recommendations of a school district.

8. In carrying out the requirements of this section, the Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental educational services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218E.615 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

9. The Commission shall not award a grant of money from the Account for a program of remedial study that is available commercially unless that program has been adopted by the Department pursuant to NRS 385.389.

10. If a consortium of public schools is formed for the purpose of submitting an application pursuant to this section, the public schools within the consortium do not need to be located within the same school district.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 11.5. **(Deleted by amendment.)**

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 21.3. NRS 388.215 is hereby amended to read as follows:

388.215 1. The board of trustees of each school district which includes at least one high school with an enrollment of 1,200 pupils or more, including pupils enrolled in ninth grade, shall adopt a ~~[policy for each of those high schools]~~ ***pilot program*** to provide a program of small learning communities. The ~~[policy]~~ ***pilot program must be implemented in at least 50 percent of the high schools in the school district with an enrollment of 1,200 pupils or more and*** must require:

(a) Where practicable, the designation of a separate area geographically within the high school where the pupils enrolled in ninth grade attend classes;

(b) The collection and maintenance of information relating to pupils enrolled in ninth grade, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of high school;

(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in ninth grade, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;

(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in ninth grade in the education of their children; and

(e) The assignment of:

(1) Guidance counselors;

(2) At least one licensed school administrator; and

(3) Appropriate adult mentors,

➥ specifically for the pupils enrolled in ninth grade.

2. The principal of ~~[each]~~ ***a*** high school in which 1,200 pupils or more are enrolled, including pupils enrolled in ninth grade, ***and which the board of trustees of the school district has designated to participate in the pilot program adopted pursuant to subsection 1*** shall:

(a) Carry out a program of small learning communities in accordance with the ~~[policy prescribed by the board of trustees pursuant to subsection 1;]~~ ***pilot program;*** and

(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods that are used to focus on the pupils enrolled in ninth grade at the school.

Sec. 21.5. NRS 391.235 is hereby amended to read as follows:

391.235 1. The board of trustees of each school district ~~[shall]~~ ***may*** adopt a policy that sets forth procedures and conditions for a program to engage administrators employed by the school district at the district level in annual classroom instruction, observation and other activities in a manner that is appropriate for the responsibilities, position and duties of the administrators. ~~[The]~~ ***If the board of trustees adopts such a policy, the***

policy must require each administrator employed by the school district at the district level to:

(a) If the administrator holds a license to teach, provide instruction in a core academic subject in a classroom for at least 1 regularly scheduled full instructional day in each school year; or

(b) If the administrator does not hold a license to teach:

(1) Personally observe a classroom for at least one-half of a regularly scheduled full instructional day in each school year; or

(2) Otherwise participate in activities with pupils in the classroom in each school year, including, without limitation, serving as a guest speaker in the classroom, reading to pupils in elementary school and participating in career day.

2. ~~[A]~~ ***If the board of trustees of a school district adopts a policy pursuant to subsection 1, a*** district-level administrator may choose a school within the school district at which the administrator will carry out the ~~[requirements]~~ ***provisions*** of this section.

3. ~~[An]~~ ***If the board of trustees of a school district adopts a policy pursuant to subsection 1, an*** administrator who provides instruction pursuant to paragraph (a) of subsection 1 must be assigned as a substitute teacher for the full instructional day in which the administrator carries out the ~~[requirements]~~ ***provisions*** of this section.

4. The provisions of this section do not apply to administrators who are employed by a school district to provide administrative service at the school level, including, without limitation, a principal or vice principal.

5. As used in this section, "core academic subject" means the core academic subjects designated pursuant to NRS 389.018.

Sec. 22. NRS 391.298 is hereby amended to read as follows:

391.298 If the board of trustees of a school district or the superintendent of schools of a school district schedules a day or days for the professional development of teachers or administrators employed by the school district:

1. The primary focus of that scheduled professional development must be to improve the achievement of the pupils enrolled in the school district ~~[.]~~, as set forth in the:

(a) ~~[Plan to improve the achievement of pupils enrolled in the school district prepared pursuant to NRS 385.348;~~

~~(b)]~~ Plan to improve the achievement of pupils prepared pursuant to NRS 385.357;

~~[(c)]~~ ***(b)*** Turnaround plan for the school implemented pursuant to NRS 385.37603; or

~~[(d)]~~ ***(c)*** Plan for restructuring the school implemented pursuant to NRS 385.37607,

➥ as applicable.

2. The scheduled professional development must be structured so that teachers attend professional development that is designed for the specific subject areas or grades taught by those teachers.

Sec. 23. NRS 391.540 is hereby amended to read as follows:

391.540 1. The governing body of each regional training program shall:

(a) Adopt a training model, taking into consideration other model programs, including, without limitation, the program used by the Geographic Alliance in Nevada.

(b) Assess the training needs of teachers and administrators who are employed by the school districts within the primary jurisdiction of the regional training program and adopt priorities of training for the program based upon the assessment of needs. The board of trustees of each such school district may submit recommendations to the appropriate governing body for the types of training that should be offered by the regional training program.

(c) In making the assessment required by paragraph (b) ~~[, review the plans to improve the achievement of pupils prepared pursuant to NRS 385.348 by the school districts within the primary jurisdiction of the regional training program]~~ and ~~[,]~~ as deemed necessary by the governing body, review the:

(1) Plans to improve the achievement of pupils prepared pursuant to NRS 385.357;

(2) Turnaround plans for schools implemented pursuant to NRS 385.37603; and

(3) ~~*[(2)]*~~ Plans for restructuring schools implemented pursuant to NRS 385.37607,

➥ for individual schools within the primary jurisdiction of the regional training program . ~~*[which are required to implement a turnaround plan or plan for restructuring.]*~~

(d) Prepare a 5-year plan for the regional training program, which includes, without limitation:

(1) An assessment of the training needs of teachers and administrators who are employed by the school districts within the primary jurisdiction of the regional training program; and

(2) Specific details of the training that will be offered by the regional training program for the first 2 years covered by the plan.

(e) Review the 5-year plan on an annual basis and make revisions to the plan as are necessary to serve the training needs of teachers and administrators employed by the school districts within the primary jurisdiction of the regional training program.

2. The Department, the Nevada System of Higher Education and the board of trustees of a school district may request the governing body of the

regional training program that serves the school district to provide training, participate in a program or otherwise perform a service that is in addition to the duties of the regional training program that are set forth in the plan adopted pursuant to this section or otherwise required by statute. An entity may not represent that a regional training program will perform certain duties or otherwise obligate the regional training program as part of an application by that entity for a grant unless the entity has first obtained the written confirmation of the governing body of the regional training program to perform those duties or obligations. The governing body of a regional training program may, but is not required to, grant a request pursuant to this subsection.

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 36.3. Section 3 of chapter 311, Statutes of Nevada 2009, at page 1332, is hereby amended to read as follows:

Sec. 3. 1. The board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more shall adopt a ~~[policy for each of those middle schools and junior high schools]~~ ***pilot program*** to provide a program of small learning communities for pupils enrolled in the grade level at which those middle schools or junior high schools initially enroll pupils. The ~~[policy]~~ ***pilot program must be implemented in at least 50 percent of the middle schools and junior high schools in the school district with an enrollment of 500 pupils or more and*** must require:

(a) Where practicable, the designation of a separate area geographically within the middle school or junior high school where the pupils enrolled in their initial year at the middle school or junior high school attend classes;

(b) The collection and maintenance of information relating to pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, credits earned, attendance, truancy and

indicators that a pupil may be at risk of dropping out of middle school or junior high school;

(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in his initial year at the middle school or junior high school, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;

(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in their initial year in a middle school or junior high school in the education of their children; and

(e) The assignment of:

(1) Guidance counselors;

(2) At least one licensed school administrator or his designee; and

(3) Appropriate adult mentors,

➥ specifically for the pupils enrolled in their initial year at the middle school or junior high school.

2. The principal of ~~[each]~~ ***a*** middle school or junior high school in which 500 pupils or more are enrolled ***and which the board of trustees of the school district has designated to participate in the pilot program adopted pursuant to subsection 1*** shall:

(a) Carry out a program of small learning communities in accordance with the ~~[policy prescribed by the board of trustees pursuant to subsection 1;]~~ ***pilot program;*** and

(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods which are used to focus on the pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, the program of mentoring provided pursuant to section 5 of this act.

Sec. 36.5. Section 7 of chapter 311, Statutes of Nevada 2009, at page 1334, is hereby amended to read as follows:

Sec. 7. 1. ***The board of trustees of each school district shall adopt the policy required by section 2 of this act not later than January 1, 2013, for implementation beginning with the 2013-2014 School Year. On or before June 1, 2012, the board of trustees of each school district shall provide a report to the Superintendent of Public Instruction on the status of the adoption of the policy required by section 2 of this act, including, without limitation, a plan for the implementation of that policy beginning with the 2013-2014 School Year. On or before July 1, 2012, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.***

2. The board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils

or more shall adopt the pilot program required by section 3 of this act not later than January 1, 2013, for implementation beginning with the 2013-2014 School Year. On or before June 1, 2012, the board of trustees of each such school district shall provide a report to the Superintendent of Public Instruction on the status of the adoption of the pilot program required by section 3 of this act, including, without limitation, a plan for the implementation of the pilot program beginning with the 2013-2014 School Year. On or before July 1, 2012, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.

3. The board of trustees of each school district shall adopt the policies required by sections ~~[~~2, 3,~~]~~ 5 and 6 of this act not later than January 1, 2011, for implementation beginning with the 2011-2012 School Year.

~~[~~2.~~]~~ ***4.*** On or before June 1, 2010, the board of trustees of each school district shall provide a report to the Superintendent of Public Instruction on the status of the adoption of the policies required by sections ~~[~~2, 3,~~]~~ 5 and 6 of this act, including, without limitation, a plan for implementation of those policies beginning with the 2011-2012 School Year. On or before July 1, 2010, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.

Sec. 36.7. Section 8 of chapter 311, Statutes of Nevada 2009, at page 1334, is hereby amended to read as follows:

Sec. 8. 1. This section and section 7 of this act become effective on July 1, 2009.

2. Sections ~~[~~2 to~~]~~ ***4, 5 and*** 6 ~~[~~, inclusive,~~]~~ of this act become effective on July 1, 2009, for the purpose of adopting the policies required by sections ~~[~~2, 3,~~]~~ 5 and 6 of this act and on July 1, 2011, for all other purposes.

3. Section 2 of this act becomes effective on July 1, 2009, for the purpose of adopting the policy required by that section and on July 1, 2013, for all other purposes.

4. Section 3 of this act becomes effective on July 1, 2011, for the purposes of adopting the pilot program required by that section and on July 1, 2013, for all other purposes.

Sec. 37. NRS 385.348 ~~[~~and 385.357 are~~]~~ **is** hereby repealed.

Sec. 37.5. (Deleted by amendment.)

Sec. 38. 1. This section and section 36.7 of this act become effective upon passage and approval.

2. Sections 1 to 21, inclusive, 21.5 to 36.5, inclusive, and 37 of this act become effective on July 1, 2011.

3. Section 21.3 of this act becomes effective on July 1, 2011, for the purpose of adopting the pilot program required by that section and on July 1, 2013, for all other purposes.

TEXT OF REPEALED ~~[SECTIONS]~~ SECTION

385.348 Plan by school district to improve achievement of pupils: Preparation; contents; submission; annual review.

385.348 1. The board of trustees of each school district shall, in consultation with the employees of the school district, prepare a plan to improve the achievement of pupils enrolled in the school district, excluding pupils who are enrolled in charter schools located in the school district. If the school district is a Title I school district designated as demonstrating need for improvement pursuant to NRS 385.377, the plan must also be prepared in consultation with parents and guardians of pupils enrolled in the school district and other persons who the board of trustees determines are appropriate.

2. Except as otherwise provided in this subsection, the plan must include the items set forth in 20 U.S.C. § 6316(c)(7) and the regulations adopted pursuant thereto. If a school district has not been designated as demonstrating need for improvement pursuant to NRS 385.377, the board of trustees of the school district is not required to include those items set forth in 20 U.S.C. § 6316(c)(7) and the regulations adopted pursuant thereto that directly relate to the status of a school district as needing improvement.

3. In addition to the requirements of subsection 2, a plan to improve the achievement of pupils enrolled in a school district must include:

(a) A review and analysis of the data upon which the report required pursuant to subsection 2 of NRS 385.347 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at individual schools that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in the school district, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school district;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed by the school district to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of the pupils enrolled in the school district, as deemed appropriate by the board of trustees of the school district.

(e) An identification, by category, of the employees of the school district who are responsible for ensuring that each provision of the plan is carried out effectively.

(f) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(g) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(h) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from the school district, by program and by school, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the school district to carry out the plan, including, without limitation, a budget of the overall cost for carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature that are available to the school district or the schools within the school district to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(l) An identification of the programs, practices and strategies that are used throughout the school district and by the schools within the school district that have proven successful in improving the achievement and proficiency of pupils, including, without limitation:

(1) An identification of each school that carries out such a program, practice or strategy;

(2) An indication of which programs, practices and strategies are carried out throughout the school district and which programs, practices and strategies are carried out by individual schools;

(3) The extent to which the programs, practices and strategies include methods to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361; and

(4) A description of how the school district disseminates information concerning the successful programs, practices and strategies to all schools within the school district.

4. The board of trustees of each school district shall:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school district.

5. On or before December 15 of each year, the board of trustees of each school district shall submit the plan or the revised plan, as applicable, to the:

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee; and

(f) Bureau.

~~[385.357 Plan to improve achievement of pupils for individual schools; duties of school support team in preparing plan; annual review; process for submission and approval of plan; timeline for carrying out plan. Effective July 1, 2010.~~

~~1. Except as otherwise provided in NRS 385.37603 and 385.37607, the principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school, prepare a plan to improve the achievement of the pupils enrolled in the school.~~

~~2. The plan developed pursuant to subsection 1 must include:~~

~~(a) A review and analysis of the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and a review and analysis of any data that is more recent than the data upon which the report is based.~~

~~(b) The identification of any problems or factors at the school that are revealed by the review and analysis.~~

~~(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as defined in NRS 389.018.~~

~~(d) Policies and practices concerning the core academic subjects which have the greatest likelihood of ensuring that each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school will make adequate yearly progress and meet the minimum level of proficiency prescribed by the State Board.~~

~~(e) Annual measurable objectives, consistent with the annual measurable objectives established by the State Board pursuant to NRS 385.361, for the continuous and substantial progress by each group of pupils identified in paragraph (b) of subsection 1 of that section who are enrolled in the school to ensure that each group will make adequate yearly progress and meet the level of proficiency prescribed by the State Board.~~

~~(f) Strategies, consistent with the policy adopted pursuant to NRS 392.457 by the board of trustees of the school district in which the school is located, to promote effective involvement by parents and families of pupils enrolled in the school in the education of their children.~~

~~(g) As appropriate, programs of remedial education or tutoring to be offered before and after school, during the summer, or between sessions if the school operates on a year-round calendar for pupils enrolled in the school who need additional instructional time to pass or to reach a level considered proficient.~~

~~(h) Strategies to improve the academic achievement of pupils enrolled in the school, including, without limitation, strategies to:~~

~~(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:~~

~~(I) The curriculum appropriate to improve achievement;~~

~~(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and~~

~~(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361;~~

~~(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;~~

~~(3) Integrate technology into the instructional and administrative programs of the school;~~

~~(4) Manage effectively the discipline of pupils; and~~

~~(5) Enhance the professional development offered for the teachers and administrators employed at the school to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of pupils enrolled in the school, as deemed appropriate by the principal.~~

~~(i) An identification, by category, of the employees of the school who are responsible for ensuring that the plan is carried out effectively.~~

~~(j) In consultation with the school district or governing body, as applicable, an identification, by category, of the employees of the school district or governing body, if any, who are responsible for ensuring that the plan is carried out effectively or for overseeing and monitoring whether the plan is carried out effectively.~~

~~(k) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.~~

~~(l) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.~~

~~(m) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.~~

~~(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by the school district in which the school is located in complying with this paragraph.~~

~~(o) A summary of the effectiveness of appropriations made by the Legislature that are available to the school to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.~~

~~(p) A budget of the overall cost for carrying out the plan.~~

~~3. In addition to the requirements of subsection 2, if a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623, the plan must comply with 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto.~~

~~4. Except as otherwise provided in subsection 5, the principal of each school shall, in consultation with the employees of the school:~~

~~(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and~~

~~(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school.~~

~~5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 and a support team has been established for the school, the support team shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS 385.36127. If the school is a Title I school that has been designated as demonstrating need for improvement, the support team established for the school shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the support team, outside experts.~~

~~6. On or before November 1 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the plan or the revised plan, as applicable, to:~~

~~(a) If the school is a public school of the school district, the superintendent of schools of the school district.~~

~~(b) If the school is a charter school, the governing body of the charter school.~~

~~7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.~~

~~8. If a school is designated as demonstrating exemplary achievement, high achievement or adequate achievement, or if a school that is not a Title I school is designated as demonstrating need for improvement, not later than 45 days after receipt of the plan or the revised plan, as applicable, the superintendent of schools of the school district or the governing body, as~~

~~applicable, shall approve the plan or the revised plan if it meets the requirements of this section.~~

~~9. On or before December 15 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the final plan or the final revised plan, as applicable, to the:~~

~~(a) Superintendent of Public Instruction;~~

~~(b) Governor;~~

~~(c) State Board;~~

~~(d) Department;~~

~~(e) Committee;~~

~~(f) Bureau; and~~

~~(g) Board of trustees of the school district in which the school is located.~~

~~10. A plan for the improvement of a school must be carried out expeditiously, but not later than January 1 after approval of the plan pursuant to subsection 7 or 8, as applicable.~~**]**

Assemblywoman Mastroluca moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 365.

Remarks by Assemblywoman Mastroluca.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 136, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 811 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 11, which is attached to and hereby made a part of this report.

MARCUS CONKLIN	MICHAEL SCHNEIDER
IRENE BUSTAMANTE ADAMS	ALLISON COPENING
PAT HICKEY	JAMES SETTELMEYER
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA11.

SUMMARY—Revises certain provisions governing financial ~~[institutions.]~~ **organizations.** (BDR 55-737)

AN ACT relating to financial ~~[institutions;]~~ **organizations;** revising provisions governing the period that a bank may hold certain real property; removing provisions requiring a bank annually to charge off a certain percentage of the value of certain real property held by the bank and acquired as a result of a debt owed to the bank; revising provisions governing the review of certain applications for licensure by the Commissioner of Financial Institutions; revising provisions relating to the control of a retail trust company; revising provisions governing the assets which certain trust companies are required to maintain; revising provisions governing applications for a license to operate a retail trust company; authorizing

certain persons to appeal certain decisions of the Commissioner; **revising the period after which certain property is presumed to be abandoned;** requiring the State Controller to develop and operate with financial institutions a data-match system for the collection of certain debts owed to the State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a bank to hold real property that the bank acquires through the collection of debts owed to it for up to 10 years, and **section 1** of this bill reduces that period to 5 years, except that a bank may request an extension of that period from the Commissioner of Financial Institutions of not more than 5 years. Existing law also requires a bank to charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage if so required by the Commissioner. (NRS 662.015) **Section 1** removes the requirement that a bank annually charge off a certain percentage of the value of such real property.

Existing law charges the Commissioner with certain duties and responsibilities related to retail trust companies, including investigating companies that apply for licensure as a retail trust company, issuing licenses to qualified companies to operate as a retail trust company and removing from office an officer, director, manager or employee of a retail trust company for certain conduct. (NRS 657.180, 669.085, 669.090, 669.130, 669.150, 669.160, 669.281) **Section 3** of this bill requires the Commissioner to consider certain criteria related to the potential long-term success of a trust company before approving the company's application for licensure to operate as a retail trust company. **Section 4** of this bill requires a person who intends to obtain control of a retail trust company to submit an application for licensure to the Commissioner. **Section 7** of this bill requires the Commissioner to provide to an applicant for licensure as a retail trust company written notice of any grounds for denial of an application and authorizes the applicant to cure any defect or deficiency in the application and resubmit the application within a certain period. **Section 8** of this bill provides that a person who is removed from office by the Commissioner may appeal his or her removal from office within a certain period.

Existing law requires a retail trust company to maintain at least 50 percent of its required stockholders' equity in cash, unless the Commissioner approves a different amount, with the remaining amount to be held in the form of readily marketable securities or certain other assets that may be approved by the Commissioner. Existing law also requires a noncustodial trust company to maintain 50 percent of its required minimum capital in cash. (NRS 669.100) **Section 6** of this bill requires a retail trust company to maintain a certain amount of its required stockholders' equity in the form of cash or certain cash equivalents and authorizes a retail trust company to hold

the remaining amount of the required stockholders' equity in the form of readily marketable securities or certain other assets upon the approval of the Commissioner. **Section 6** further requires that bonds or other evidence of indebtedness held by a retail trust company as part of its required stockholders' equity meet certain investment standards. **Section 6** also requires a noncustodial trust company to maintain 25 percent of its required minimum capital in the form of cash.

Section 8.5 of this bill reduces from 3 years to 2 years the period after which unclaimed property is presumed to be abandoned property if the holder of the property reported holding more than $10 million in property presumed abandoned on the most recent report filed by the holder.

Section 10 of this bill requires the State Controller to develop and operate a system for matching data to collect outstanding debts owed to the State. Financial institutions in this State must provide to the State Controller information on persons who maintain accounts at the financial institution and are identified by the State Controller as owing outstanding debts to the State. Financial institutions are then required to encumber **certain** assets held in the financial institution by the debtors to pay their debts.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 662.015 is hereby amended to read as follows:

662.015 1. In addition to the powers conferred by law upon private corporations and limited-liability companies, a bank may:

(a) Exercise by its board of directors, managers or authorized officers and agents, subject to law, all powers necessary to carry on the business of banking by:

(1) Discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of indebtedness;

(2) Receiving deposits;

(3) Buying and selling exchange, coin and bullion; and

(4) Loaning money on personal security or real and personal property.

➥ At the time of making loans, banks may take and receive interest or discounts in advance.

(b) Adopt regulations for its own government not inconsistent with the Constitution and laws of this State.

(c) Issue, advise and confirm letters of credit authorizing the beneficiaries to draw upon the bank or its correspondents.

(d) Receive money for transmission.

(e) Establish and become a member of a clearinghouse association and pledge assets required for its qualification.

(f) Exercise any authority and perform all acts that a national bank may exercise or perform, with the consent and written approval of the Commissioner. The Commissioner may, by regulation, waive or modify a requirement of Nevada law if the corresponding requirement for national banks is eliminated or modified.

(g) Provide for the performance of the services of a bank service corporation, such as data processing and bookkeeping, subject to any regulations adopted by the Commissioner.

(h) Unless otherwise specifically prohibited by federal law, sell annuities if licensed by the Commissioner of Insurance.

2. A bank may purchase, hold and convey real property:

(a) As is necessary for the convenient transaction of its business, including furniture and fixtures, with its banking offices and for future site expansion. This investment must not exceed, except as otherwise provided in this section, 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures. The Commissioner may authorize any bank located in a city whose population is more than 10,000 to invest more than 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures, in its banking offices, furniture and fixtures.

(b) As is mortgaged to it in good faith by way of security for loans made or money due to the bank.

(c) As is permitted by NRS 662.103.

3. This section does not prohibit any bank from holding, developing or disposing of any real property it may acquire through the collection of debts due it. ~~[Any]~~ ***Except as otherwise provided in subsection 4,*** real property acquired through the collection of debts due it may not be held for longer than ~~[10]~~ ***5*** years. It must be sold at private or public sale within 30 days thereafter. ~~[During the time that the bank holds the real property, the bank shall charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage per year as the Commissioner may require.]~~

4. A bank may request and the Commissioner may grant an extension of the period described in subsection 3 of not more than 5 years. The Commissioner shall not grant a bank more than one extension of the period prescribed in subsection 3 for any real property held by the bank.

Sec. 2. NRS 669.083 is hereby amended to read as follows:

669.083 1. A retail trust company licensed in this State shall maintain its principal office in this State.

2. The conditions for a retail trust company to fulfill the requirements of subsection 1 include, but are not limited to:

(a) A verifiable physical office in this State that conducts such business operations in this State as are necessary to administer trusts in this State;

(b) The presence of an employee that is a resident of Nevada in the principal office who has experience that is satisfactory to the Commissioner in accepting and administering trusts;

(c) Maintenance of originals or true copies of all material business records and accounts of the retail trust company which may be accessed and are readily available for examination by the Division of Financial Institutions;

(d) Maintenance of ***any cash as a portion of*** the required ~~[cash portion of the]~~ stockholders' equity pursuant to NRS 669.100 in accounts with one or more banks or other financial institutions located in this State;

(e) The provision of services to residents of this State consistent with the business plan provided by the trust company with its license application; and

(f) Such other conditions that the Commissioner may ***reasonably*** require to protect the public interest.

Sec. 3. NRS 669.085 is hereby amended to read as follows:

669.085 1. ~~[The Commissioner may conduct a pre-opening examination of a retail trust company and, in]~~ ***In*** rendering a decision on an application for a license as a retail trust company, ***the Commissioner shall*** consider:

(a) The proposed market or markets to be served and, if they extend outside of this State, any exceptional risk, examination or supervision concerns associated with such markets;

(b) Whether the proposed organizational and capital structure and the amount of initial capital appear adequate in relation to the proposed business and market or markets, including, without limitation, the average level of assets under management and administration projected for each of the first 3 years of operation;

(c) ~~[Whether the anticipated volume and nature of business indicate a reasonable probability of success and profitability based on the market or markets proposed to be served;~~

~~(d)]~~ Whether the proposed officers and directors or managers of the proposed retail trust company, as a group, have sufficient experience, ability, standing and competence and whether each individually has sufficient trustworthiness and integrity to justify a belief that the proposed retail trust company will be free from improper or unlawful influence and otherwise will operate in compliance with the law and applicable fiduciary duties and that success of the proposed retail trust company is reasonably probable;

~~[(e)]~~ ***(d)*** Whether any investment services to trusts, estates, charities, employee benefit plans and other fiduciary accounts or to natural persons, partnerships, limited-liability companies and other entities, including, without limitation, providing investment advice with or without discretion or selling investments in or investment products of affiliated or nonaffiliated persons, will be conducted in compliance with all applicable fiduciary

standards, including, without limitation, NRS 164.700 to 164.775, inclusive, the duty of loyalty and disclosure of material information;

~~[(f)]~~ ***(e)*** Whether the proposed retail trust company will be exempt from registration under the Investment Advisers Act of 1940, 15 U.S.C. § 80b-1 et seq., and any similar state laws in each state where it would otherwise be required to register and, if not, whether it will comply with such registration requirements before commencing business and thereafter will comply with all federal and state laws and regulations applicable to it, its employees and representatives as a registrant under such laws;

~~[(g)]~~ ***(f)*** Whether the proposed retail trust company will obtain suitable annual audits by qualified outside auditors of its books and records and its fiduciary activities under applicable account rules and standards as well as suitable internal audits; and

~~[(h)]~~ ***(g)*** Any other factors that the Commissioner may ***reasonably*** require.

2. The Commissioner may require a retail trust company to maintain capital in excess of the minimum required either initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the retail trust company's business plan or any other circumstances revealed in the application, the Commissioner's investigation of the application or any examination of or filing by the retail trust company thereafter, including any examination before the opening of the retail trust company for business. In making such a determination, the Commissioner may consider:

(a) The nature and type of business proposed to be conducted by the retail trust company;

(b) The nature and liquidity of assets proposed to be held in its own account;

(c) The amount of fiduciary assets projected to be under management or under administration of the retail trust company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of fiduciary duties and degree of discretion proposed to be undertaken by the retail trust company;

(f) The competence and experience of proposed management of the retail trust company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence or absence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The existence and adequacy of insurance proposed to be obtained by the retail trust company for the purpose of protecting its fiduciary assets;

(k) The success of the retail trust company in achieving the financial projections submitted with its licensing application;

(l) The fulfillment by the retail trust company of its representations and its descriptions of its business structures and methods and management set forth in its licensing application; and

(m) Any other factor that the Commissioner may require.

Sec. 4. NRS 669.087 is hereby amended to read as follows:

669.087 1. A license issued pursuant to this chapter is not transferable or assignable **[**~~. Upon~~**]** ***, but upon*** approval of the Commissioner, a licensee may merge or consolidate with, or transfer its assets and control to, another entity that has been issued a license under this chapter. In making a determination regarding whether to grant such approval, the Commissioner may consider the factors set forth in paragraphs (a) to (m), inclusive, of subsection 2 of NRS 669.085.

2. If there is a change in control of any retail trust company, the chief executive officer or managing member of the retail trust company shall report the fact and the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A retail trust company shall, within 5 business days after there is a change in the chief executive officer, managing member or a majority of the directors or managing directors of the retail trust company, report the change to the Commissioner. The retail trust company shall include in its report a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.

4. A person who **[**~~acquires~~**]** ***intends to acquire*** control **[**~~as a result of a change of control~~**]** of a retail trust company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation ***pursuant to NRS 669.160*** to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to **[**~~transact the business of a~~**]** ***control the*** trust company in a manner which protects the interests of the general public.

5. The retail trust company with which the applicant described in subsection 4 is affiliated shall pay the nonrefundable cost of the investigation as the Commissioner requires. If the Commissioner denies the application,

the Commissioner may forbid or limit the applicant's participation in the business of the trust company.

6. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of a retail trust company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, a retail trust company.

Sec. 5. NRS 669.092 is hereby amended to read as follows:

669.092 1. It is unlawful for any retail trust company licensed in this State to engage in trust company business at any office outside this State without the prior approval of the Commissioner.

2. Before the Commissioner will approve a branch to be located in another state, the retail trust company must:

(a) Obtain from that state a license as a trust company; or

(b) ~~[Meet]~~ ***Provide proof satisfactory to the Commissioner that the retail trust company has met*** all the requirements to do business as a trust company at an office in that state ~~[.]~~***, including, without limitation, written documentation from the appropriate state agency that the retail trust company is authorized to do business in that state.***

Sec. 6. NRS 669.100 is hereby amended to read as follows:

669.100 1. No retail trust company may be organized or operated with a stockholders' equity of less than $1,000,000, or in such greater amount as may be required by the Commissioner. The full amount of the initial stockholders' equity must be paid in cash, exclusive of all organization expenses, before the trust company is authorized to commence business.

2. A retail trust company shall maintain at least ~~[50]~~ ***25*** percent of its required stockholders' equity in cash ~~[unless the Commissioner approves a smaller amount.]~~ ***and at least an additional 25 percent of its required stockholders' equity in cash or cash equivalents comprising certificates of deposit, money market funds or other insured deposits. Cash equivalents held by a retail trust company pursuant to this subsection may, upon prior approval by the Commissioner, comprise investments in treasury bills, government obligations or commercial paper which, if acquired after October 1, 2011, must mature not later than 3 months after the date of acquisition by the retail trust company. Any certificate of deposit, money market fund, insured deposit, commercial paper, treasury bill or government obligation, other than an obligation of the United States or an obligation guaranteed by the United States, that is held as a cash equivalent by a retail trust company pursuant to this subsection must not exceed 10 percent of the total required stockholders' equity at the time the cash equivalent is purchased.*** The remaining ~~[50 percent]~~ ***amount*** of ~~[its]~~ ***the retail trust company's*** required stockholders' equity may be a different

form of readily marketable securities **,** or with prior approval by the Commissioner **,** other liquid, secure asset, bond, surety or insurance, or some combination of the foregoing. ***Any bond or other evidence of indebtedness held by a retail trust company pursuant to this subsection must have an investment grade credit rating and must have received a rating within one of the top three rating categories of Moody's Investors Service, Inc. or Standard and Poor's Ratings Services.***

3. Any grandfathered trust company other than a noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

(1) By October 1, 2010, $500,000;

(2) By October 1, 2011, $750,000; and

(3) By October 1, 2012, $1,000,000; and

(b) Maintain ~~[$500,000]~~ ***25 percent*** of such minimum capital in cash on and after October 1, 2010.

4. Any noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

(1) By October 1, 2010, $350,000;

(2) By October 1, 2011, $400,000; and

(3) By October 1, 2012, $500,000; and

(b) Maintain ~~[50]~~ ***25*** percent of such minimum capital in cash on and after October 1, 2010.

5. As used in this section, "in cash" means in depository accounts with one or more banks in this State.

Sec. 7. NRS 669.160 is hereby amended to read as follows:

669.160 1. Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That the persons who will serve as directors or officers of the corporation, or the managers or members acting in a managerial capacity of the limited-liability company, as applicable:

(1) Have a good reputation for honesty, trustworthiness and integrity and display competence to transact the business of a trust company in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Have not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(3) Have not made a false statement of material fact on the application.

(4) Have not been an officer or member of the board of directors for an entity which had a license issued pursuant to the provisions of this chapter that was suspended or revoked within the 10 years immediately preceding the date of the application, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.

(5) Have not been an officer or member of the board of directors for a company which had a license as a trust company which was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of the application, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.

(6) Have not violated any of the provisions of this chapter or any regulation adopted pursuant to the provisions of this chapter.

(b) That the financial status of the directors and officers of the corporation or the managers or members acting in a managerial capacity of the limited-liability company is consistent with their responsibilities and duties.

(c) That the name of the proposed company complies with the provisions of NRS 657.200.

(d) That the initial stockholders' equity is not less than the required minimum.

(e) That the applicant has retained the employee required by paragraph (b) of subsection 2 of NRS 669.083.

2. ~~[~~Notice~~]~~ ***After an investigation by the Commissioner pursuant to subsection 1, if the Commissioner finds any defect or deficiency in an application for licensure which would constitute grounds for denial of the application, written notice of such grounds for denial must be served personally or sent by certified mail to the applicant. The Commissioner shall allow the applicant an opportunity to cure any defect or deficiency in the application and, not later than 30 days after receipt of the notice of denial, to resubmit the application for approval.***

3. If a defect or deficiency in an application is not cured pursuant to subsection 2, written notice of the entry of an order refusing a license to a trust company must be ~~[given in writing,]~~ served personally or sent by certified mail to the company affected. The company, upon application, is entitled to a hearing before the Commissioner, but if no such application is made within 30 days after the entry of an order refusing a license to any company, the Commissioner shall enter a final order.

~~[3.]~~ ***4.*** The order of the Commissioner is final for the purposes of judicial review.

Sec. 8. NRS 669.281 is hereby amended to read as follows:

669.281 ***1.*** The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any retail trust company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the retail trust company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.

2. An officer, director, manager or employee of a retail trust company who is removed from office pursuant to subsection 1 may appeal his or her removal by filing a written request for a hearing with the Commissioner within 10 days after the effective date of his or her removal. The Commissioner shall conduct the hearing after providing at least 5 days' written notice to the retail trust company and the officer, director, manager or employee who is removed from office. Within 5 days after the hearing, the Commissioner shall enter an order affirming or disaffirming the removal of the person from office. An order of the Commissioner entered pursuant to this subsection is final for the purposes of judicial review.

Sec. 8.5. **NRS 120A.500 is hereby amended to read as follows:**

120A.500 1. Except as otherwise provided in ~~[subsection 6,]~~ ***subsections 6 and 7,*** property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) A traveler's check, 15 years after issuance;

(b) A money order, 7 years after issuance;

(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) Except as otherwise provided in NRS 120A.520, any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;

(i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1 ~~[,]~~ ***or 7, as applicable,*** the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a

person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

6. The following property clearly designated as such must not be presumed abandoned because of inactivity or failure to make a demand:

(a) An account or asset managed through a guardianship;

(b) An account blocked at the direction of a court;

(c) A trust account established to address a special need;

(d) A qualified income trust account;

(e) A trust account established for tuition purposes;

(f) A trust account established on behalf of a client; and

(g) An account or fund established to meet the costs of burial.

7. For property described in paragraphs (c) to (f), inclusive, and (n) of subsection 1, the 3-year period described in each of those paragraphs must be reduced to a 2-year period if the holder of the property reported more than $10 million in property presumed abandoned on the holder's most recent report of abandoned property made pursuant to NRS 120A.560.

Sec. 9. NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, ***State Controller,*** district attorney, Department of Taxation, Director of the Department of Health and Human Services, Administrator of the Securities Division of the Office of the Secretary of State, public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain the customer's financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460 ~~[.]~~ ***or section 10 of this act.***

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

Sec. 10. Chapter 353C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Controller shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible.

2. In addition to any other remedy provided for in this chapter, the State Controller may use the system for matching data developed and

operated pursuant to subsection 1 to collect a debt, plus any applicable penalties and interest.

3. A financial institution in this State shall:

(a) Cooperate with the State Controller in carrying out the provisions of subsection 1.

(b) Use the system to provide to the State Controller for each calendar quarter the name, address of record, social security number or other number assigned for taxpayer identification of each person who maintains an account at the financial institution, as identified by the State Controller by name and social security number or other number assigned for taxpayer identification.

(c) In response to the receipt from the State Controller of notification of debt that a person owes the State, encumber ~~[all assets of the person held by the financial institution]~~ on behalf of the State Controller a portion of the assets of the person held by the financial institution sufficient to cover the debt and surrender those assets to the State Controller. A financial institution is not required to encumber or surrender any assets received by the financial institution on behalf of the person after the financial institution received the notice of the debt from the State Controller.

4. A financial institution may not be held liable in any civil or criminal action for:

(a) Any disclosure of information to the State Controller pursuant to this section.

(b) Encumbering or surrendering any assets held by the financial institution pursuant to this section.

(c) Any other action taken in good faith to comply with the requirements of this section.

5. If a court issues an order to return to a person any assets surrendered by a financial institution pursuant to subsection 3, the State Controller is not liable to the person for any of those assets that have been provided to the State Controller in accordance with the order for the payment of a debt.

6. All information provided to the State Controller by a financial institution pursuant to this section is confidential and may only be used by the State Controller for use in the collection of a debt owed to the State.

7. As used in this section, "financial institution" has the meaning ascribed to it in NRS 239A.030.

Sec. 11. This act becomes effective upon passage and approval.

Assemblyman Conklin moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 136.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 240, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 764 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 15, which is attached to and hereby made a part of this report.

DEBBIE SMITH	JOHN LEE
TERESA BENITEZ-THOMPSON	JAMES SETTELMEYER
LYNN STEWART	JOE HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA15.

AN ACT relating to public agencies; revising the restrictions on contracts with or employment of former or current state employees by a state agency; providing certain exceptions; requiring state agencies to report all contracts for services as part of the budget process; requiring that a contractor with a state agency be in active and good standing with the Secretary of State; **requiring certain reporting to the 77th Session of the Legislature;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law restricts the employment of consultants by public agencies and requires the approval of certain contracts with consultants by the Interim Finance Committee. (NRS 284.1729) **Section 1** of this bill expands those restrictions to apply to all contracts to provide services to state agencies, revises the exceptions to the restrictions and requires approval of the State Board of Examiners rather than the Interim Finance Committee of contracts subject to the restrictions. **Section 1** also prohibits a state agency from entering into a contract with a person for services without ensuring that the person is in active and good standing with the Secretary of State. **Section 1** also provides that certain provisions governing state purchasing apply to such contracts. **Section 2** of this bill requires state agencies to report all contracts for services as part of the budget process instead of only reporting contracts with consultants and temporary employment services. **Section 3 of this bill** moves the reporting requirements for school districts regarding consultants to the chapter which specifically governs school districts. **Section 3.5 of this bill requires certain reporting to the 77th Session of the Legislature concerning certain contracts for services entered into by state agencies.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 284.1729 is hereby amended to read as follows:

284.1729 1. Except as otherwise provided in this section, a department, division or other agency of this State shall not **[**~~employ, by~~**]** ***enter into a***

contract ~~[or otherwise,]~~ ***with*** a person to provide services ~~[as a consultant]~~ for the agency if:

(a) The person is a current employee of an agency of this State;

(b) The person is a former employee of an agency of this State and less than ~~[1 year has]~~ ***2 years have*** expired since the termination of the person's employment with the State ~~[.]~~ ***; or***

(c) ~~[Except as otherwise provided in paragraph (d), the term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years; or~~

~~(d)]~~ The person is employed by the Department of Transportation for a transportation project that is ~~[federally]~~ ***entirely*** funded ***by federal money*** and the term of the contract is for more than 4 years, ~~[or is amended or otherwise extended beyond 4 years,]~~

➥ unless, before the ~~[person is employed]~~ ***contract is executed*** by the agency, the ~~[Interim Finance Committee]~~ ***State Board of Examiners*** approves the employment of the person. ***The requirements of this subsection apply to any person employed by a business or other entity that enters into a contract to provide services for a department, division or agency of this State if the person will be performing or producing the services for which the business or entity is employed.***

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The ~~[Interim Finance Committee]~~ ***State Board of Examiners*** shall not approve ~~[the employment of a consultant]~~ ***a contract*** pursuant to paragraph (b) of subsection 1 unless the ~~[Interim Finance Committee]~~ ***Board*** determines that one or more of the following circumstances exist:

(a) The person provides services that are not provided by any other employee of the agency or for which a critical labor shortage exists; or

(b) A short-term need or unusual economic circumstance exists for the agency to ~~[employ]~~ ***contract with*** the person ***.*** ~~[as a consultant.]~~

3. A department, division or other agency of this State may ~~[employ]~~ ***contract with*** a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the ~~[Interim Finance Committee]~~ ***State Board of Examiners*** if the term of ~~[employment]~~ ***the contract*** is for less than 4 months and the executive head of the department, division or agency determines that an emergency exists which necessitates the ~~[employment.]~~ ***contract.*** If a department, division or agency ~~[employs]~~ ***contracts with*** a person pursuant to this subsection, the department, division or agency shall ~~[include in the report to the Interim Finance Committee pursuant to subsection 4]~~ ***submit a copy of the contract and*** a description of the

emergency ~~[.]~~ ***to the State Board of Examiners, which shall review the contract and the description of the emergency and notify the department, division or agency whether the State Board of Examiners would have approved the contract if it had not been entered into pursuant to this subsection.***

4. Except as otherwise provided in subsection ~~[7,]~~ ***9,*** a department, division or other agency of this State shall ***, not later than 10 days after the end of each fiscal quarter,*** report to the Interim Finance Committee ~~[whenever it employs, by contract or otherwise,]~~ ***concerning all contracts*** ~~[a person]~~ to provide services ~~[as a consultant]~~ for the agency ***that were entered into by the agency during the fiscal quarter with a person*** who is a ***current or*** former employee of a department, division or other agency of this State.

5. Except as otherwise provided in subsection ~~[7,]~~ ***9,*** a department, division or other agency of this State shall not contract with a temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

6. Each board or commission of this State ~~[, each school district in this State]~~ and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

(a) The number of consultants employed by the board, commission ~~[, school district]~~ or institution;

(b) The purpose for which the board, commission ~~[, school district]~~ or institution employs each consultant;

(c) The amount of money or other remuneration received by each consultant from the board, commission ~~[, school district]~~ or institution; and

(d) The length of time each consultant has been employed by the board, commission ~~[, school district]~~ or institution.

7. ***A department, division or other agency of this State, including a board or commission of this State and each institution of the Nevada System of Higher Education*** ~~*[, shall]*~~ ***:***

(a) Shall make every effort to limit the number of contracts it enters into with persons to provide services which have a term of more than 2 years and which are in the amount of less than $1 million; and

(b) Shall not enter into a contract with a person to provide services without ensuring that the person is in active and good standing with the Secretary of State.

8. The provisions of chapter 333 of NRS that are not in conflict or otherwise inconsistent with this section apply to a contract entered into pursuant to this section.

9. The provisions of subsections 1 to 5, inclusive, do not apply to ***:*** ~~[the:]~~

(a) ***The*** Nevada System of Higher Education or a board or commission of this State.

(b) ~~[Employment]~~ ***The employment*** of professional engineers by the Department of Transportation if those engineers are employed for a transportation project that is ~~[federally funded.~~

~~8. For the purposes of this section, "consultant" includes any person employed by a business or other entity that is providing consulting services if the person will be performing or producing the work for which the business or entity is employed.]~~ ***entirely funded by federal money.***

(c) Contracts in the amount of $1 million or more entered into:

(1) Pursuant to the State Plan for Medicaid established pursuant to NRS 422.271.

(2) For financial services.

(3) Pursuant to the Public Employees' Benefits Program.

(d) The employment of a person by a business or entity which is a provider of services under the State Plan for Medicaid and which provides such services on a fee-for-service basis or through managed care.

Sec. 2. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy;

(b) Any existing contracts ***for services*** the department, institution or agency has with ~~[consultants or]~~ temporary employment services ~~[,]~~ ***or other persons,*** the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such ~~[consultants or]~~ services; and

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his or her designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in the Chief's office or which the Chief may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his or her information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 3. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

Each school district in this State that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

1. The number of consultants employed by the school district;

2. The purpose for which the school district employs each consultant;

3. The amount of money or other remuneration received by each consultant from the school district; and

4. The length of time each consultant has been employed by the school district.

Sec. 3.5. **Each department, division or other agency of this State, including a board or commission of this State and each institution of the Nevada System of Higher Education, shall, on or before February 1, 2013, submit to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Legislature a report that:**

1. Lists each contract the department, division or agency has entered into with persons to provide services which has a term of more than 2 years and which is in the amount of less than $1 million; and

2. Sets forth a description of the necessity of entering into each contract, including, without limitation, the necessity of the contract having a term of more than 2 years.

Sec. 4. This act becomes effective on July 1, 2011.

Assemblywoman Kirkpatrick moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 240.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Assemblyman Conklin moved that the Assembly recess until call of the Chair.

Motion carried.

Assembly in recess at 2:49 p.m.

ASSEMBLY IN SESSION

At 6:51 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Education, to which was referred Senate Bill No. 197, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID P. BOBZIEN, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 360, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 370, 371, 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 Legislative Operations and Elections, to which were referred Senate Bill No. 418; Senate Joint Resolution No. 15, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

TICK SEGERBLOM, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 487, 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. 493, 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. 406, 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*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 6, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 93, 219, 536.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 511, Amendment No. 938, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendments Nos. 661, 958 to Senate Bill No. 159; Assembly Amendment No. 947 to Senate Bill No. 212; Assembly Amendment No. 548 to Senate Bill No. 282; Assembly Amendment No. 640 to Senate Bill No. 315; Assembly Amendment No. 732 to Senate Bill No. 376.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 98.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 249.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By Legislative Operations and Elections:

Assembly Concurrent Resolution No. 13—Providing for the compensation of the clergy and the coordinator of the clergy for services rendered to the Assembly and Senate during the 76th Session of the Nevada Legislature.

WHEREAS, The members of the 76th Session of the Nevada Legislature sincerely appreciate the daily religious services that are rendered by members of the clergy representing various denominations; and

WHEREAS, The invocations offered by the clergy provide inspiration and guidance for the members of the Nevada Legislature as they face the challenges and demands of a legislative session; and

WHEREAS, The assistance provided by the coordinator of the clergy facilitated the daily services; and

WHEREAS, A reasonable compensation should be provided for the clergy who performed such services and for the coordinator of the clergy; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the State Controller is authorized and directed to pay the sum of $35 per service out of the Legislative Fund to the members of the clergy who performed religious services for the Assembly and the Senate during the 76th Session of the Nevada Legislature; and be it further

RESOLVED, That the State Controller is authorized and directed to pay the sum of $2,000 to the coordinator of the clergy who facilitated the services for the Assembly and the Senate during the 76th Session of the Nevada Legislature.

Assemblyman Conklin moved the adoption of the resolution.

Remarks by Assemblyman Conklin.

Mr. Speaker requested the privilege of the Chair for the purpose of making remarks.

Resolution adopted and ordered transmitted to the Senate.

By Assemblyman Oceguera:

Assembly Resolution No. 10—Expressing appreciation to the staff of the Assembly for their dedication and exceptional performance during the 76th Session of the Nevada Legislature.

WHEREAS, Each biennium, the Nevada Legislature convenes to address the challenging issues faced by this State; and

WHEREAS, With a constitutionally mandated 120-day limitation on the length of the legislative session, it is critical that the legislative session proceed in an effective and efficient manner; and

WHEREAS, This daunting task requires a dedicated and talented staff which is capable of performing a multitude of functions and responding promptly to the different challenges that arise during the legislative session; and

WHEREAS, The Chief Clerk of the Assembly, Assembly Front Desk Staff, Sergeant at Arms and his staff, Personal Attaches, Committee Services Staff, Administrative Services Staff, Bill Services Staff and other attaches of the Assembly have worked diligently and efficiently in providing exceptional service to the members of the Assembly; and

WHEREAS, The extraordinary people who have chosen to work with the Assembly during the 76th Session of the Nevada Legislature have carried out their duties on behalf of the residents of the State of Nevada with a professional attitude and tireless resolve; and

WHEREAS, Their herculean efforts earlier this week enabled the Assembly to coast to a smooth finish on a day that is typically one of the more arduous deadlines of the legislative session; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the members of the Assembly of the 76th Session of the Nevada Legislature do hereby express their sincere appreciation and commend the outstanding support staff of the Assembly, which includes Matthew Baker, Lucinda Benjamin, Diane Keetch, Christie Peters, Jason P. Hataway, Jeanne Douglass, Robin L. Bates, Norman Budden, Linda Marrone, Mary A. Matheus, Sharon P. Murphy, Steven J. Sweeney, Debra Williams, Marge Griffin, Patricia A. Manning, Jasmine Shackley, Leslie Danihel, Dan Giraldo, Christina Coats, Riley Sutton, Matthew Walker, Jean Kvam, Gianna Shirk, Joyce Hess, Alicia Taylor Sisneros, Toshiko McIntosh, Carolyn Maynick, Sara Menke, Laurel Armbrust, Lona M. Domenici, Janet F. Stokes, Ashley Massey, Mary Bean, Mark Sprinkle, Kathryn L. Alden, Harle Glover, Mary Lee, Adrian Viesca, Mistia Zuckerman, Taylor Anderson, Nichole Bailey, Cynthia Carter, Andrew Diss, Patti Adams, Connie Davis, Anne Bowen, Jordan Butler, Tenna Herman, Sherie Silva, Carol J. Thomsen, Janice Wright, Linda Blevins, Theresa Horgan, Jean Bennett, Lenore Carfora-Nye, Judith Coolbaugh, Janel Davis, Nancy Davis, Jeff Eck, Mary Garcia, Julie Kellen, Sharon McCallen, Jenny McMenomy, Earlene Miller, Jordan Neubauer, Mitzi Nelson, Diane O'Flynn, Rebecca Richman, Karyn Werner, Linda Whimple, Cheryl L. Williams, Sylvia Brown, Sylvia Dominguez-Curry, Judith Fisher, Karen Fox, Laureen Garcia, Lisa Gardner, Patricia J. Hutson, Millicent Jorgenson, Denise A. Larsen, Linda Law, Deanna Lazovich, Beatriz Martinez, Lezlie Mayville, Mary Merry, Blayne Osborne, Sheree L. Rosevear, Dennis Roy, Jennifer Scaffidi, Swati Singh, Cindy

Southerland, Nancy Tatum, Jackie Valley, Linda Waters, Cheryl Yates, Cinthia Zermeno, Cynthia Wyett, Olivia M. Lloyd, Michael Smith, Sally A. Stoner, Jordan Davis, Victoria Hinder, Diane Hudson, Verdene Johnson, David E. Moore, Larry Peri, Marcia Peterson, Elizabeth Saenz, Ted Zuend, June Bennett, Deanna Keirstead, Sherwood Howard; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to each member of the staff of the Assembly.

Assemblyman Conklin moved the adoption of the resolution.

Remarks by Assemblyman Conklin.

Mr. Speaker requested the privilege of the Chair for the purpose of making remarks.

Resolution adopted and ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 279, 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*

GENERAL FILE AND THIRD READING

Assembly Bill No. 279.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 957.

AN ACT relating to gaming; requiring the Nevada Gaming Commission to adopt regulations pertaining to independent testing laboratories; authorizing independent testing laboratories to inspect and certify gaming devices, equipment and systems; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Gaming Control Board to inspect every gaming device which is manufactured, sold or distributed: (1) for use in this State, before the gaming device is put into play; and (2) in this State for use outside this State, before the gaming device is shipped from this State. The Board may also inspect every gaming device which is offered for play within this State by a state gaming licensee. Additionally, the Board may inspect various gaming equipment and systems which are manufactured, sold or distributed for use in this State and may determine, charge and collect an inspection fee from each gaming manufacturer, seller or distributor. (NRS 463.670)

This bill requires the Nevada Gaming Commission to adopt regulations providing for the registration of independent testing laboratories, which may be utilized by the Board to inspect and certify gaming devices, equipment

and systems, and any components thereof, and providing for the standards and procedures for the revocation of registration of such independent testing laboratories. Such regulations must establish uniform protocols and procedures that the Board and independent testing laboratories must follow during the inspection and certification of gaming devices, equipment and systems, and any components thereof. This bill also authorizes the Commission to determine, charge and collect inspection fees from independent testing laboratories.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 463.670 is hereby amended to read as follows:

463.670 1. The Legislature finds and declares as facts:

(a) That the inspection of gaming devices, associated equipment, cashless wagering systems, mobile gaming systems and interactive gaming systems is essential to carry out the provisions of this chapter **.** ~~[, and]~~

(b) That ***the*** inspection of gaming devices, associated equipment, cashless wagering systems, mobile gaming systems and interactive gaming systems is greatly facilitated by the opportunity to inspect components before assembly and to examine the methods of manufacture.

(c) That the interest of this State in the inspection of gaming devices, associated equipment, cashless wagering systems, mobile gaming systems and interactive gaming systems must be balanced with the interest of this State in maintaining a competitive gaming industry in which games can be efficiently and expeditiously brought to the market.

2. ***The Commission may, with the advice and assistance of the Board, adopt and implement procedures that preserve and enhance the necessary balance between the regulatory and economic interests of this State which are critical to the vitality of the gaming industry of this State.***

3. The Board may inspect every gaming device which is manufactured, sold or distributed:

(a) For use in this State, before the gaming device is put into play.

(b) In this State for use outside this State, before the gaming device is shipped out of this State.

~~[3.]~~ ***4.*** The Board may inspect every gaming device which is offered for play within this State by a ***state gaming*** licensee.

~~[4.]~~ ***5.*** The Board may inspect all associated equipment, every cashless wagering system, every mobile gaming system and every interactive gaming system which is manufactured, sold or distributed for use in this State before the equipment or system is installed or used by a ***state gaming*** licensee and at any time while the ***state gaming*** licensee is using the equipment or system.

~~[5.]~~ ***6.*** In addition to all other fees and charges imposed by this chapter, the Board may determine, charge and collect an inspection fee from each manufacturer, seller ***,*** ~~[or]~~ distributor ***or independent testing laboratory*** which must not exceed the actual cost of inspection and investigation.

7. The Commission shall adopt regulations which:

(a) Provide for the registration of independent testing laboratories, specify the form of the application required for such registration and establish the fees required for the application, the investigation of the applicant and the registration of the applicant.

(b) Authorize the Board to utilize independent testing laboratories for the inspection and certification of any gaming device, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system, or any components thereof.

(c) Establish uniform protocols and procedures which the Board and independent testing laboratories must follow during an inspection performed pursuant to subsection 3 or 5, and which independent testing laboratories must follow during the certification of any gaming device, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system, or any components thereof, for use in this State or for shipment from this State.

(d) Allow an application for the registration of an independent testing laboratory to be granted upon the independent testing laboratory's completion of an inspection performed in compliance with the uniform protocols and procedures established pursuant to paragraph (c) and satisfaction of such other requirements that the Board may establish.

(e) Provide the standards and procedures for the revocation of the registration of an independent testing laboratory.

8. As used in this section, unless the context otherwise requires, "independent testing laboratory" means a private laboratory that is registered by the Commission to inspect and certify gaming devices, associated equipment, cashless wagering systems, mobile gaming systems and interactive gaming systems, and any components thereof, and to perform such other services as the Board and Commission may request.

Sec. 1.5. The Nevada Gaming Commission shall adopt the regulations required to be adopted pursuant to the amendatory provisions of this act before ~~[October 1, 2011.]~~ **May 1, 2012.**

Sec. 2. This act becomes effective:

1. Upon passage and approval, for the purpose of adopting regulations; and

2. On ~~[October 1, 2011,]~~ **May 1, 2012,** for all other purposes.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 406.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 979.

AN ACT relating to state agencies; authorizing the Governor to require the Chief of the Division of Internal Audits of the Department of Administration to conduct certain audits and investigations of executive branch agencies without the approval of the Executive Branch Audit Committee ~~[,]~~ **under certain circumstances;** authorizing the Chief to conduct investigations; deleting provisions which prohibit the Division from conducting investigations; requiring executive branch agencies to cooperate in an audit or investigation; ~~[exempting certain audits and investigations from being included in certain reports to the Committee;]~~ requiring certain documents relating to investigations of executive branch agencies to be kept confidential under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Executive Branch Audit Committee, requires the Chief of the Division of Internal Audits of the Department of Administration to submit annual plans to audit executive branch agencies to the Committee, and requires the Committee to approve those plans. (NRS 353A.038, 353A.045) Further, existing law prohibits the Division from conducting investigations. (NRS 353A.055) **Section 1** of this bill authorizes the Governor to require the Chief to conduct an audit or an investigation of an executive branch agency that is not in the plan the Chief submitted and without the approval of the Committee. **Section 2** of this bill authorizes the Chief to conduct investigations, as well as audits, and requires the Chief to conduct the audits or investigations required by the Governor as well as those approved by the Committee. **Section 3** of this bill eliminates the prohibition against the Division conducting investigations.

Existing law requires the Chief of the Division of Internal Audits of the Department of Administration to submit ~~[an annual]~~ **, after an audit is completed, a final** report to the Executive Branch Audit Committee ~~[which includes all final reports of audits conducted in the preceding year. (NRS 353A.065) Section 4 of this bill prohibits the inclusion in that report of any reference to audits or investigations required by the Governor.]~~ **and the head of the audited agency. (NRS 353A.085) Section 6** of this bill requires that

the final ~~[reports]~~ **report** of an audit or investigation required by the Governor be given to the Governor ~~[and not]~~ **,** the Committee **~~[.]~~ and the head of the audited or investigated agency.**

Section 5 of this bill requires all executive branch agencies to cooperate with the Chief or the authorized representative of the Chief in an audit or investigation. **Section 8** of this bill requires that the working documents from an investigation are to be kept confidential under certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 353A.038 is hereby amended to read as follows:

353A.038 1. The Executive Branch Audit Committee is hereby created.

2. The Committee must consist of one member who is a representative of the general public appointed by the Governor, who has at least 5 years of progressively responsible experience in the field of auditing and who does not engage in business with any agency, and the following ex officio members:

(a) The Governor, who shall serve as Chair of the Committee;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The State Treasurer;

(e) The State Controller; and

(f) The Attorney General.

3. The member of the Committee who is a representative of the general public is entitled to receive a salary of $80 per day while engaged in the business of the Committee.

4. While engaged in the business of the Committee, each member of the Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Committee shall:

(a) Adopt policies and procedures for the operation of the Division;

(b) Approve, with or without revision, each annual plan for auditing agencies presented by the Chief pursuant to NRS 353A.045, and any revisions to such a plan, before the plan is implemented; and

(c) Approve, with or without revision, each annual report submitted by the Chief pursuant to NRS 353A.065.

6. ~~*[The]*~~ ***To the extent that money is available for that purpose, the Governor, as the Chair of the Committee and without the approval of the Committee, may direct the Chief to perform additional audits or investigations of executive branch agencies not included in the plan presented pursuant to NRS 353A.045.***

Sec. 2. NRS 353A.045 is hereby amended to read as follows:

353A.045 The Chief shall:

1. Report to the Director.

2. Develop long-term and annual work plans to be based on the results of periodic documented risk assessments. The annual work plan must list the agencies to which the Division will provide training and assistance and be submitted to the Director for approval. Such agencies must not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS.

(b) The Nevada System of Higher Education.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

3. Provide a copy of the approved annual work plan to the Legislative Auditor.

4. In consultation with the Director, prepare a plan for auditing ***or investigating*** executive branch agencies for each fiscal year and present the plan to the Committee for its review and approval. Each plan for auditing ***or investigating*** must:

(a) State the agencies which will be audited ~~[,]~~ ***or investigated,*** the proposed scope and assignment of those audits ***or investigations*** and the related resources which will be used for those audits ~~[;]~~ ***or investigations;*** and

(b) Ensure that the internal accounting, administrative controls and financial management of each agency are reviewed periodically.

5. Perform the audits ***or investigations*** of the programs and activities of the agencies in accordance with the plan approved pursuant to subsection 5 of NRS 353A.038 and prepare audit ***or investigation*** reports of his or her findings.

6. ***Perform additional audits or investigations of executive branch agencies if required by the Governor pursuant to subsection 6 of NRS 353A.038.***

7. Review each agency that is audited ***or investigated*** pursuant to subsection 5 ***or 6*** and advise those agencies concerning internal accounting, administrative controls and financial management.

~~[7.]~~ ***8.*** Submit to each agency that is audited ***or investigated*** pursuant to subsection 5 ***or 6 any*** analyses, appraisals and recommendations concerning:

(a) The adequacy of the internal accounting and administrative controls of the agency; and

(b) The efficiency and effectiveness of the management of the agency.

~~[8.]~~ ***9.*** Report any possible abuses, illegal actions, errors, omissions and conflicts of interest of which the Division becomes aware during the performance of an audit ~~[.~~

~~9.~~ ***or investigation.***

10. Adopt the standards of the Institute of Internal Auditors for conducting and reporting on internal audits.

~~[10.]~~ ***11.*** Consult with the Legislative Auditor concerning the plan for auditing and the scope of audits to avoid duplication of effort and undue disruption of the functions of agencies that are audited pursuant to subsection 5 ~~[~~.

~~11.]~~ ***or 6.***

12. Appoint a Manager of Internal Controls.

Sec. 3. NRS 353A.055 is hereby amended to read as follows:

353A.055 1. The Division shall:

(a) Determine the adequacy of the system of internal accounting, administrative control and financial management of each agency to which the Division provides training and assistance.

(b) Adopt regulations, approved by the Committee, requiring the provision of training to any employee of an agency who is responsible for administering budgetary accounts. The training must address:

(1) The laws and regulations of this state and the Federal Government applicable to the operations of the agency.

(2) Internal accounting, administrative controls and financial management.

(3) Techniques to address the adequacy of controls of the agency.

(c) Develop and administer a procedure to evaluate the effectiveness of any training provided to an agency.

(d) Provide technical assistance to agencies in developing and carrying out their systems of internal accounting, administrative controls and financial management.

(e) Prepare separate reports for each agency which summarize the results of the training and assistance provided to the agency.

2. The Division shall not ~~[~~:

~~(a) Provide~~] ***provide*** any services to an agency that is under the direct control or administration of a constitutional officer unless the constitutional officer requests such services.

~~[(b) Conduct investigations, but shall refer such matters to the appropriate agency.]~~

Sec. 4. ~~[NRS 353A.065 is hereby amended to read as follows:~~

~~353A.065 1. Within 90 days after the end of each fiscal year, the Chief shall submit an annual report to the Committee for its approval which:~~

~~(a) Lists the agencies to which the Division provided training and assistance;~~

~~(b) Separately lists any other activities undertaken by the Division that are related to the provision of training and assistance and the status of those activities;~~

~~(c) [~~Contains~~] *Except as otherwise provided in subsection 3, contains* a list of the final reports that have been submitted pursuant to NRS 353A.085;~~

~~(d) [~~Contains~~] *Except as otherwise provided in subsection 3, contains* a separate list of any other activities undertaken by the Division that are related to the final reports submitted pursuant to NRS 353A.085 and the status of those activities; and~~

~~(e) Describes the accomplishments of the Division.~~

~~2. The Chief shall provide a copy of the annual report to the:~~

~~(a) Committee;~~

~~(b) Director;~~

~~(c) Interim Finance Committee; and~~

~~(d) Legislative Auditor.~~

~~*3. The annual report submitted by the Chief to the Committee pursuant to this section must not include information about any audit or investigation required by the Governor pursuant to subsection 6 of NRS 353A.038.]~~ **(Deleted by amendment.)**

Sec. 5. NRS 353A.075 is hereby amended to read as follows:

353A.075 1. Except as otherwise provided in subsection 2, upon the request of the Chief or the Chief's authorized representative, all officers and employees of each executive branch agency shall ~~[~~make~~]~~ ***:***

(a) Make available to the Division all books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, in the possession or control of the agency.

(b) Cooperate with the Chief or the Chief's authorized representative in any audit or investigation conducted by the Chief or the Division.

2. This section does not authorize the Chief or the Chief's authorized representative to have access to any books, accounts, claims, reports, vouchers or other records or information of any business or activity which NRS 665.130 and 668.085 require to be kept confidential.

Sec. 6. NRS 353A.085 is hereby amended to read as follows:

353A.085 1. After each audit ***or investigation*** is completed, the Chief or the Chief's designated representative shall submit a copy of the preliminary findings and recommendations of the audit ***or investigation*** to the head of the audited ***or investigated*** agency. Within 10 working days after receipt of the preliminary findings and recommendations, the head of the ***audited or investigated*** agency shall submit to the Chief a written statement of acceptance, explanation or rebuttal concerning the findings. The Chief shall include the statement of the head of the agency in the final report.

2. ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** Chief shall submit a final report to the Committee and the head of the audited ***or investigated*** agency.

3. Except as otherwise provided in NRS 353A.031 to 353A.100, inclusive, the Chief shall not disclose the content of any audit ***or investigation*** before the final report is submitted to the Committee pursuant to subsection 2 except in the case of alleged illegal acts which must be reported immediately upon discovery.

4. If the Chief conducts an audit or investigation required by the Governor pursuant to subsection 6 of NRS 353A.038, the Chief shall submit the final report to the Governor , the Committee and the head of the audited or investigated agency.

Sec. 7. NRS 353A.090 is hereby amended to read as follows:

353A.090 Within 6 months after the date that the final report is submitted pursuant to NRS 353A.085, if corrective action is recommended for an agency, the Chief shall determine whether appropriate corrective actions are being taken and whether those actions are achieving the desired result. The Chief shall inform the Committee and the head of the audited ***or investigated*** agency of the effect of any corrective actions taken.

Sec. 8. NRS 353A.100 is hereby amended to read as follows:

353A.100 1. The Chief shall keep or cause to be kept a complete file of copies of all reports of audits, examinations, investigations and all other reports or releases issued by the Chief.

2. All working papers from an audit ***or investigation*** are confidential and may be destroyed by the Chief 5 years after the report is issued, except that the Chief:

(a) Shall release such working papers when subpoenaed by a court of competent jurisdiction or when required to do so pursuant to NRS 239.0115;

(b) Shall make such working papers available to the Legislative Auditor upon his or her request; and

(c) May make such working papers available for inspection by an authorized representative of any other governmental entity for a matter officially before him or her.

Sec. 9. This act becomes effective on July 1, 2011.

Assemblyman Hickey moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 487.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 921.

SUMMARY—Makes ~~[an appropriation]~~ **appropriations** to the State Board of Examiners for employee retirement buyouts and terminal leave payments for eliminated positions. (BDR S-1242)

AN ACT making ~~[an appropriation]~~ **appropriations** to the State Board of Examiners for employee retirement buyouts and terminal leave payments for eliminated positions; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. There is hereby appropriated from the State General Fund to the State Board of Examiners the sum of ~~[$7,000,000]~~ **$3,300,000** for employee retirement buyouts and terminal leave payments for eliminated positions.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2013, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2013, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2013.

Sec. 2.3. **There is hereby appropriated from the State Highway Fund to the State Board of Examiners the sum of $134,000 for employee retirement buyouts and terminal leave payments for eliminated positions.**

Sec. 2.5. **Any remaining balance of the appropriation made by section 2.3 of this act must not be committed for expenditure after June 30, 2013, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2013, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State Highway Fund on or before September 20, 2013.**

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 469 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 197.

Bill read third time.

Remarks by Assemblymen Bobzien and Smith.

Roll call on Senate Bill No. 197:

YEAS—41.

NAYS—Munford.

Senate Bill No. 197 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 493.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 980.

AN ACT relating to mining; creating the Mining Oversight and Accountability Commission and establishing its membership, powers and duties; revising provisions governing the calculation of net proceeds from certain mining operations conducted in this State; repealing a fee imposed on certain filings regarding mining claims; **making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law does not provide for a single administrative body to oversee the activities of the various state agencies that have responsibility for the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 5** of this bill creates the Mining Oversight and Accountability Commission, consisting of seven members appointed by the Governor. Two of the members must be recommended by the Majority Leader of the Senate and two by the Speaker of the Assembly. In the first biennium, one member must be recommended by the Minority Leader of the Senate. In the next biennium, one member must be recommended by the Minority Leader of the Assembly. The authority of the Minority Leader of the Senate and the Minority Leader of the Assembly to make those recommendations alternates each biennium thereafter. **Section 7** of this bill requires the Commission to provide oversight of compliance with Nevada law relating to the activities of each state agency with respect to the taxation,

operation, safety and environmental regulation of mines and mining in this State. **Section 7** also identifies particular state entities that are subject to the supervision of the Commission with respect to their activities related to mines and mining: (1) the Nevada Tax Commission and the Department of Taxation in the taxation of the net proceeds of minerals; (2) the Division of Industrial Relations of the Department of Business and Industry concerning the safe and healthful working conditions at mines; (3) the Commission on Mineral Resources and the Division of Minerals of the Commission; (4) the Bureau of Mines and Geology of the State of Nevada; and (5) the Division of Environmental Protection of the State Department of Conservation and Natural Resources in its activities concerning the reclamation of land used in mining. **Sections 8 and 13-16** of this bill establish certain reports and other information that those entities are required to provide to the Commission. **Section 11** of this bill authorizes the Commission to request the Legislative Commission to direct the Legislative Auditor to provide for a special audit or investigation of the activities of any state agency, board, bureau, commission or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 12** of this bill provides that certain regulations of the Nevada Tax Commission, Administrator of the Division of Industrial Relations, Commission on Mineral Resources and the State Environmental Commission concerning mines and mining are not effective unless they are reviewed by the Mining Oversight and Accountability Commission before being approved by the Legislative Commission. **Sections 12.5 and 12.7** of this bill revise provisions governing the calculation of net proceeds from certain mining operations conducted in this State.

During the 26th Special Session in 2010, the Legislature enacted a law imposing a fee on the filing of an affidavit of the work performed on or improvements made to a mining claim or an affidavit of the intent to hold a mining claim, if the person who holds the mining claim holds 11 or more mining claims in this State. (NRS 517.187) **Section 16.3** of this bill repeals that law. **Section 16.7** of this bill allows any person who paid that fee to receive a credit of the amount paid against any liability of the person for the state modified business tax or, if that is not practical, a refund of the amount paid.

Section 16.5 of this bill makes an appropriation to the Department of Taxation to fund the costs for the Mining Oversight and Accountability Commission.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 362 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12 inclusive, of this act.

Sec. 2. ***As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Chair" means the Chair of the Commission.***

Sec. 4. ***"Commission" means the Mining Oversight and Accountability Commission created by section 5 of this act.***

Sec. 5. ***1. There is hereby created the Mining Oversight and Accountability Commission consisting of seven members appointed as follows:***

(a) Two members appointed by the Governor;

(b) Two members appointed by the Governor from a list of persons recommended by the Majority Leader of the Senate;

(c) Two members appointed by the Governor from a list of persons recommended by the Speaker of the Assembly; and

(d) One member appointed by the Governor from a list of persons recommended by the Minority Leader of the Senate or the Minority Leader of the Assembly. The Minority Leader of the Senate shall recommend persons for appointment for the initial term, the Minority Leader of the Assembly shall recommend persons for appointment for the next succeeding term, and thereafter, the authority to recommend persons for appointment must alternate each biennium between the Houses of the Legislature.

2. The Governor, Majority Leader of the Senate, Speaker of the Assembly, Minority Leader of the Senate and Minority Leader of the Assembly shall confer before the Governor makes an appointment to ensure that:

(a) Not more than two of the members are appointed from any one county in this State; and

(b) Not more than two of the members have a direct or indirect financial interest in the mining industry or are related by blood or marriage to a person who has such an interest.

3. Each member of the Commission serves for a term of 2 years.

4. A vacancy on the Commission must be filled by the Governor in the same manner as the original appointment.

Sec. 6. ***1. The Commission shall elect one of its members as Chair and another as Vice Chair, who shall serve for a term of 1 year or until their successors are elected and qualified.***

2. The Commission shall meet at least once each calendar quarter and may meet at other times on the call of the Chair or a majority of its members.

3. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.

4. While engaged in the business of the Commission, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Executive Director of the Department shall assign employees of the Department to provide such technical, clerical and operational assistance to the Commission as the functions and operations of the Commission may require.

Sec. 7. *Notwithstanding any other provision of law, the Commission shall provide oversight of compliance with Nevada law relating to the activities of each state agency, board, bureau, commission, department or division with respect to the taxation, operation, safety and environmental regulation of mines and mining in this State, including, without limitation, the activities of:*

1. The Nevada Tax Commission and the Department of Taxation in the taxation of the net proceeds of minerals pursuant to this chapter and Section 5 of Article 10 of the Nevada Constitution.

2. The Division of Industrial Relations of the Department of Business and Industry in administering the provisions of chapter 512 of NRS concerning the safe and healthful working conditions at mines.

3. The Commission on Mineral Resources and the Division of Minerals of the Commission in the administration of the provisions of chapters 513 and 522 of NRS concerning the conduct of mining operations and operations for the production of oil, gas and geothermal energy in the State.

4. The Bureau of Mines and Geology of the State of Nevada in the Public Service Division of the Nevada System of Higher Education in its administration of the provisions of chapter 514 of NRS.

5. The Division of Environmental Protection of the State Department of Conservation and Natural Resources in its administration of the provisions of chapter 519A of NRS concerning the reclamation of mined land, areas of exploration and former areas of mining or exploration.

Sec. 8. *In addition to any other information requested by the Commission pursuant to section 9 of this act:*

1. The Administrator of the Division of Industrial Relations of the Department of Business and Industry shall submit to the Commission at its first regular meeting in each calendar year the report that is required pursuant to NRS 512.140 concerning the functions of the Administrator under chapter 512 of NRS concerning the creation and maintenance of

safe and healthful working conditions at mines in this State during the immediately preceding calendar year.

2. The Department of Taxation shall submit to the Commission at the second regular meeting of the Commission in each calendar year:

(a) An audit program identifying each mining operator or other person who is required to file a statement concerning the extraction of minerals in this State pursuant to NRS 362.100 to 362.240, inclusive, that the Department intends to audit during the immediately following calendar year;

(b) A report of the results of each audit of a mining operator or other person completed by the Department during the immediately preceding calendar year; and

(c) A report of the status of each audit of a mining operator or other person that is in process at the time of the report.

3. The Division of Environmental Protection of the State Department of Conservation and Natural Resources shall submit to the Commission at its third regular meeting in each calendar year a report concerning the Division's activities concerning the reclamation of mined lands, areas of exploration and former areas of mining or exploration during the immediately preceding calendar year, including, without limitation, an accounting of the amounts of fees collected for permits issued by the Division and any fines imposed by the Division.

Sec. 9. ***1. In conducting the investigations and hearings of the Commission:***

(a) The Chair or any member designated by the Chair may administer oaths.

(b) The Chair may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chair may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the Chair may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission which is named in the subpoena, or has refused to answer questions propounded to the witness,

↪ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Commission.

3. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why the witness has not attended or testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

Sec. 10. *1. Each witness who appears before the Commission by its order, except a state officer or employee, is entitled to receive for such attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State.*

2. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Chair of the Commission.

Sec. 11. *1. The Commission may submit a request to the Legislative Commission that the Legislative Auditor be directed to undertake, or to contract with a qualified accounting firm to undertake, a special audit or investigation of the activities of any state agency, board, bureau, commission or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State.*

2. The request submitted pursuant to subsection 1 must be accompanied by an explanation of the circumstances that give rise to the request.

Sec. 12. *A permanent regulation adopted by the:*

1. Nevada Tax Commission, pursuant to NRS 360.090, concerning any taxation related to the extraction of any mineral in this State, including, without limitation, the taxation of the net proceeds pursuant to this chapter and Section 5 of Article 10 of the Nevada Constitution;

2. Administrator of the Division of Industrial Relations of the Department of Business and Industry for mine health and safety pursuant to NRS 512.131;

3. Commission on Mineral Resources pursuant to 513.063, 513.094 or 519A.290; and

4. State Environmental Commission pursuant to NRS 519A.160,

➥ ***is not effective unless it is reviewed by the Mining Oversight and Accountability Commission before it is approved pursuant to chapter 233B of NRS by the Legislative Commission or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067. After conducting its review of the regulation, the Mining Oversight and Accountability Commission shall provide a report of its findings and recommendations regarding the regulation to the Legislative Counsel for submission to the Legislative Commission or the Subcommittee to Review Regulations, as appropriate.***

Sec. 12.5. NRS 362.120 is hereby amended to read as follows:

362.120 1. The Department shall, from the statement filed pursuant to NRS 362.110 and from all obtainable data, evidence and reports, compute in dollars and cents the gross yield and net proceeds of the calendar year immediately preceding the year in which the statement is filed.

2. The gross yield must include the value of any mineral extracted which was:

(a) Sold;

(b) Exchanged for any thing or service;

(c) Removed from the State in a form ready for use or sale; or

(d) Used in a manufacturing process or in providing a service,

➥ during that period.

3. The net proceeds are ascertained and determined by subtracting from the gross yield the following deductions for costs incurred during that period, and none other:

(a) The actual cost of extracting the mineral ~~[.]~~ ***, which is limited to direct costs for activities performed in the State of Nevada.***

(b) The actual cost of transporting the mineral to the place or places of reduction, refining and sale.

(c) The actual cost of reduction, refining and sale.

(d) The actual cost of ~~[marketing and]~~ delivering the mineral ***.*** ~~[and the conversion of the mineral into money.]~~

(e) The actual cost of maintenance and repairs of:

(1) All machinery, equipment, apparatus and facilities used in the mine.

(2) All milling, refining, smelting and reduction works, plants and facilities.

(3) All facilities and equipment for transportation except those that are under the jurisdiction of the Public Utilities Commission of Nevada or the Nevada Transportation Authority.

(f) ~~[The actual cost of fire insurance on the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e).~~

~~(g)]~~ Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph

(e). The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada Tax Commission ~~[.]~~ ***and approved by the Mining Oversight and Accountability Commission created by section 5 of this act.*** The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

~~[(h) All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for all employees.~~

~~(i)]~~ ***(g)*** All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in chapter 612 of NRS, all money paid as contributions under the Social Security Act of the Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this paragraph.

~~[(j)]~~ ***(h) The costs of employee travel which occurs within the State of Nevada and which is directly related to mining operations within the State of Nevada.***

(i) The costs of Nevada-based corporate services relating to paragraphs (e) to (h), inclusive.

(j) The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit ~~[.~~

~~(k)]~~ ***, which is limited to work that is necessary to the operation of the mine or group of mines.***

(k) The costs of reclamation work in the years the reclamation work occurred, including, without limitation, costs associated with the remediation of a site.

(l) All money paid as royalties by a lessee or sublessee of a mine or well, or by both, in determining the net proceeds of the lessee or sublessee, or both.

4. Royalties deducted by a lessee or sublessee constitute part of the net proceeds of the minerals extracted, upon which a tax must be levied against the person to whom the royalty has been paid.

5. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the Department on forms provided by the Department. ***The Department shall report annually to the Mining Oversight and Accountability Commission the expenses and deductions of each mining operation in the State of Nevada.***

6. The several deductions mentioned in subsection 3 do not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

(a) The working of the mine;

(b) The operating of the mill, smelter or reduction works;

(c) The operating of the facilities or equipment for transportation;

(d) Superintending the management of any of those operations; ~~[or]~~

(e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations ~~[.]~~ ***; or***

(f) Nevada-based corporate services.

7. The following expenses are specifically excluded from any deductions from the gross yield:

(a) The costs of employee housing.

(b) Except as otherwise provided in paragraph (h) of subsection 3, the costs of employee travel.

(c) The costs of severing the employment of any employees.

(d) Any dues paid to a third-party organization or trade association to promote or advertise a product.

(e) Expenses relating to governmental relations or to compensate a natural person or entity to influence legislative decisions.

(f) The costs of mineral exploration.

(g) Any federal, state or local taxes.

8. As used in this section, "Nevada-based corporate services" means corporate services which are performed in the State of Nevada from an office located in this State and which directly support mining operations in this State, including, without limitation, accounting functions relating to mining operations at a mine site in this State such as payroll, accounts payable, production reporting, cost reporting, state and local tax reporting and recordkeeping concerning property.

Sec. 12.7. NRS 362.120 is hereby amended to read as follows:

362.120 1. The Department shall, from the statement filed pursuant to NRS 362.110 and from all obtainable data, evidence and reports, compute in dollars and cents the gross yield and net proceeds of the calendar year immediately preceding the year in which the statement is filed.

2. The gross yield must include the value of any mineral extracted which was:

(a) Sold;

(b) Exchanged for any thing or service;

(c) Removed from the State in a form ready for use or sale; or

(d) Used in a manufacturing process or in providing a service,

➥ during that period.

3. The net proceeds are ascertained and determined by subtracting from the gross yield the following deductions for costs incurred during that period, and none other:

(a) The actual cost of extracting the mineral, which is limited to direct costs for activities performed in the State of Nevada.

(b) The actual cost of transporting the mineral to the place or places of reduction, refining and sale.

(c) The actual cost of reduction, refining and sale.

(d) The actual cost of delivering the mineral.

(e) The actual cost of maintenance and repairs of:

(1) All machinery, equipment, apparatus and facilities used in the mine.

(2) All milling, refining, smelting and reduction works, plants and facilities.

(3) All facilities and equipment for transportation except those that are under the jurisdiction of the Public Utilities Commission of Nevada or the Nevada Transportation Authority.

(f) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e). The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada Tax Commission and approved by the Mining Oversight and Accountability Commission created by section 5 of this act. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

(g) ***All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for employees actually engaged in mining operations within the State of Nevada.***

(h) All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in chapter 612 of NRS, all money paid as contributions under the Social Security Act of the Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this paragraph.

~~[(h)]~~ ***(i)*** The costs of employee travel which occurs within the State of Nevada and which is directly related to mining operations within the State of Nevada.

~~[(i)]~~ ***(j)*** The costs of Nevada-based corporate services relating to paragraphs (e) to ~~[(h),]~~ ***(i),*** inclusive.

~~[(j)]~~ ***(k)*** The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit, which is limited to work that is necessary to the operation of the mine or group of mines.

~~[(k)]~~ ***(l)*** The costs of reclamation work in the years the reclamation work occurred, including, without limitation, costs associated with the remediation of a site.

~~[(l)]~~ ***(m)*** All money paid as royalties by a lessee or sublessee of a mine or well, or by both, in determining the net proceeds of the lessee or sublessee, or both.

4. Royalties deducted by a lessee or sublessee constitute part of the net proceeds of the minerals extracted, upon which a tax must be levied against the person to whom the royalty has been paid.

5. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the Department on forms provided by the Department. The Department shall report annually to the Mining Oversight and Accountability Commission the expenses and deductions of each mining operation in the State of Nevada.

6. The several deductions mentioned in subsection 3 do not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

(a) The working of the mine;

(b) The operating of the mill, smelter or reduction works;

(c) The operating of the facilities or equipment for transportation;

(d) Superintending the management of any of those operations;

(e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations; or

(f) Nevada-based corporate services.

7. The following expenses are specifically excluded from any deductions from the gross yield:

(a) The costs of employee housing.

(b) Except as otherwise provided in paragraph ~~[(h)]~~ ***(i)*** of subsection 3, the costs of employee travel.

(c) The costs of severing the employment of any employees.

(d) Any dues paid to a third-party organization or trade association to promote or advertise a product.

(e) Expenses relating to governmental relations or to compensate a natural person or entity to influence legislative decisions.

(f) The costs of mineral exploration.

(g) Any federal, state or local taxes.

8. As used in this section, "Nevada-based corporate services" means corporate services which are performed in the State of Nevada from an office located in this State and which directly support mining operations in this State, including, without limitation, accounting functions relating to mining operations at a mine site in this State such as payroll, accounts payable, production reporting, cost reporting, state and local tax reporting and recordkeeping concerning property.

Sec. 13. NRS 512.140 is hereby amended to read as follows:

512.140 The Administrator shall submit annually to the Governor, ***and to the Mining Oversight and Accountability Commission created by section 5 of this act,*** as soon as practicable after the beginning of each calendar year, a full report of the administration of the Administrator's functions under this chapter during the preceding calendar year. The report must include, either in summary or detailed form, the information obtained by the Administrator under this chapter together with such findings and comments thereon and such recommendations as the Administrator may deem proper.

Sec. 14. NRS 513.063 is hereby amended to read as follows:

513.063 The Commission shall:

1. Keep itself informed of and interested in the entire field of legislation and administration charged to the Division.

2. Report to the Governor ***, the Mining Oversight and Accountability Commission created by section 5 of this act*** and the Legislature on all matters which it may deem pertinent to the Division, and concerning any specific matters previously requested by the Governor ~~[.]~~ ***or the Mining Oversight and Accountability Commission.***

3. Advise and make recommendations to the Governor ***, the Mining Oversight and Accountability Commission*** and the Legislature concerning the policy of this State relating to minerals.

4. Formulate the administrative policies of the Division.

5. Adopt regulations necessary for carrying out the duties of the Commission and the Division.

Sec. 15. NRS 513.093 is hereby amended to read as follows:

513.093 The Administrator:

1. Shall coordinate the activities of the Division.

2. Shall report to the Commission upon all matters pertaining to the administration of the Division.

3. ***Shall attend each regular meeting of the Mining Oversight and Accountability Commission created by section 5 of this act and each special meeting if requested by the Chair of that Commission and:***

(a) Report to the Mining Oversight and Accountability Commission on the activities of the Division undertaken since the Division's previous report, including, without limitation, an accounting of any fees or fines imposed or collected;

(b) The current condition of mining and of exploration for and production of oil, gas and geothermal energy in the State; and

(c) Provide any technical information required by the Mining Oversight and Accountability Commission during the course of the meeting.

4. Shall submit a biennial report to the Governor and the Legislature through the Commission concerning the work of the Division, with recommendations that the Administrator may deem necessary. The report

must set forth the facts relating to the condition of mining and of exploration for and production of oil and gas in the State.

Sec. 16. Chapter 514 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director of the Bureau of Mines and Geology shall attend each regular meeting of the Mining Oversight and Accountability Commission created by section 5 of this act and each special meeting if requested by the Chair of the Commission and:

1. Report to the Commission on the activities of the Bureau of Mines and Geology undertaken by the Bureau since its previous report, including, without limitation, the current condition of mining and of exploration for and production of oil and gas in the State; and

2. Provide any technical information required by the Commission during the course of the meeting.

Sec. 16.3. NRS 517.187 is hereby repealed.

Sec. 16.5. **1. There is hereby appropriated from the State General Fund to the Department of Taxation to fund the costs for the Mining Oversight and Accountability Commission created by section 5 of this act the sums of:**

For Fiscal Year 2011-2012	**$17,050**
For Fiscal Year 2012-2013	**$17,050**

2. Any balance of the sums appropriated pursuant to 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 entity to which the appropriation is made or any entity to which the 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 other purpose after September 21, 2012, and September 20, 2013, respectively, 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 21, 2012, and September 20, 2013, respectively.

Sec. 16.7. 1. Any person who paid any fee, interest or penalty imposed pursuant to NRS 517.187 may, on or before June 30, 2013, apply to the Department of Taxation pursuant to this section for a credit or refund of the total amount paid by the person pursuant to NRS 517.187.

2. Upon the receipt of an application pursuant to subsection 1 and proof to the satisfaction of the Department of Taxation of the total amount paid by the applicant pursuant to NRS 517.187, the Department shall:

(a) Except as otherwise provided in paragraph (b), allow the applicant a credit of the total amount paid by the person pursuant to NRS 517.187 against any liability of the person for the tax imposed pursuant to

NRS 363B.110, and carry any unused portion of the credit forward until the credit is exhausted; or

(b) If the Department determines that it is impractical to provide a full credit to the applicant pursuant to paragraph (a), cause to be refunded to the applicant the total amount paid by the applicant pursuant to NRS 517.187.

3. A person who paid any fee, interest or penalty imposed pursuant to NRS 517.187 is not entitled to receive any penalty or interest on the amount paid.

4. The failure of any person to apply to the Department of Taxation pursuant to subsection 1 within the time prescribed constitutes a waiver of any demand against the State for any credit or refund of any fee, interest or penalty paid by or on behalf of the person pursuant to NRS 517.187.

5. Each county recorder shall, upon the request of the Department of Taxation, provide to the Department such documentation as the Department determines to be necessary to verify the total amount paid pursuant to NRS 517.187 by any person who applies to the Department pursuant to subsection 1.

6. All refunds made pursuant to this section must be paid from the State General Fund upon claims presented by the Department of Taxation, approved by the State Board of Examiners, and allowed and paid as other claims against the State are allowed and paid.

Sec. 17. The Department of Taxation shall submit to the Mining Oversight and Accountability Commission created by section 5 of this act at the first regular meeting of the Commission following the effective date of this section a comprehensive audit program that sets forth the Department's plan for completing an audit of every mining operator or other person who is required to file a statement concerning the extraction of minerals in this State pursuant to NRS 362.100 to 362.240, inclusive.

Sec. 17.3. The amendatory provisions of section 12.5 of this act:

1. Do not apply to or affect any determination of gross yield or net proceeds required pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2011.

2. Apply for the purposes of estimating and determining gross yield and net proceeds pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2012 and each calendar year thereafter.

Sec. 17.5. The amendatory provisions of section 12.7 of this act:

1. Do not apply to or affect any determination of gross yield or net proceeds required pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2013.

2. Apply for the purposes of estimating and determining gross yield and net proceeds pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2014 and each calendar year thereafter.

Sec. 17.7. 1. The Nevada Tax Commission, on or before January 1, 2012, and subject to the requirements of section 12 of this act, shall adopt regulations to carry out the provisions of NRS 362.120, as amended by section 12.5 of this act.

2. In adopting regulations pursuant to subsection 1, the Nevada Tax Commission shall amend or repeal any of its existing regulations that conflict or are inconsistent with the provisions of NRS 362.120, as amended by section 12.5 of this act.

Sec. 18. Notwithstanding the provisions of section 5 of this act, as soon as practicable after the effective date of this section, the Governor shall appoint to the Mining Oversight and Accountability Commission created by section 5 of this act:

1. One member pursuant to paragraph (a), (b) and (c), respectively, of subsection 1 of that section whose term expires on June 30, 2012; and

2. One member pursuant to paragraph (a), (b), (c) and (d), respectively, of subsection 1 of that section whose term expires on June 30, 2013.

Sec. 19. 1. This section and sections 1 to 12, inclusive, and 13 to 18, inclusive, of this act become effective upon passage and approval.

2. Section 12.5 of this act becomes effective on January 1, 2012.

3. Section 12.7 of this act becomes effective on January 1, 2014.

TEXT OF REPEALED SECTION

517.187 Additional fee for filing made pursuant to NRS 517.230. [Effective through June 30, 2011.]

1. An additional fee is hereby imposed upon each filing made pursuant to NRS 517.230 regarding a mining claim held by a person who holds 11 or more mining claims in this State on the date of that filing, in the amount determined in accordance with subsection 2. The person making that filing shall remit the fee to the county recorder in such a manner that, at the option of that person:

(a) The fee is paid in full at the time of the filing;

(b) One-half of the fee is paid at the time of the filing and the remainder of the fee is paid not later than June 1 of the calendar year immediately following the filing date; or

(c) The fee is paid in full not later than June 1 of the calendar year immediately following the filing date.

2. If the greatest number of mining claims held in this State by any of the persons who hold any of the mining claims to which a filing made pursuant to NRS 517.230 pertains is:

(a) Not less than 11 and not more than 199 on the date of that filing, the fee imposed by this section is $70 for each mining claim to which the filing pertains.

(b) Not less than 200 and not more than 1,299 on the date of that filing, the fee imposed by this section is $85 for each mining claim to which the filing pertains.

(c) Not less than 1,300 on the date of that filing, the fee imposed by this section is $195 for each mining claim to which the filing pertains.

3. The county recorder shall:

(a) Obtain from each person who makes a filing pursuant to NRS 517.230 an affidavit declaring that the greatest number of mining claims held in this State on the date of that filing by any of the persons who hold any of the mining claims to which the filing pertains is:

(1) Less than 11;

(2) Not less than 11 and not more than 199;

(3) Not less than 200 and not more than 1,299; or

(4) Not less than 1,300; and

(b) Based upon the information set forth in that affidavit, collect any fee imposed on that filing pursuant to this section.

4. Any person who:

(a) Fails to pay the fee imposed pursuant to this section within the time required shall pay a penalty in the amount of 10 percent of the amount of the fee that is owed, in addition to the fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the date on which the fee is due until the date of payment.

(b) Knowingly makes a false declaration in an affidavit provided to a county recorder pursuant to subsection 3 is guilty of a misdemeanor and shall pay the amount of any additional fee, penalty and interest required pursuant to this section on account of the falsification.

5. The county recorder shall, on or before the fifth working day of each month, deposit with the county treasurer all the fees, penalties and interest imposed pursuant to this section which are collected during the preceding month. The county treasurer shall quarterly remit all money so collected to the State Controller, who shall place the money in the State General Fund.

6. The State Controller shall take such action as may be necessary to ensure that the fees, penalties and interest imposed pursuant to this section are paid in full.

Assemblyman Hickey moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 360.

Bill read third time.

Roll call on Senate Bill No. 360:

YEAS—25.
NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirkpatrick, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—17.

Senate Bill No. 360 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 370.

Bill read third time.

Roll call on Senate Bill No. 370:

YEAS—39.
NAYS—Ellison, Grady, Kite—3.

Senate Bill No. 370 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 371.

Bill read third time.

Roll call on Senate Bill No. 371:

YEAS—42.
NAYS—None.

Senate Bill No. 371 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 418.

Bill read third time.

Roll call on Senate Bill No. 418:

YEAS—26.
NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.

Senate Bill No. 418 having received a constitutional majority, Mr. Speaker declared it passed.

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 7:23 p.m.

ASSEMBLY IN SESSION

At 7:25 p.m.

Mr. Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Joint Resolution No. 15.
Resolution read third time.
Remarks by Assemblyman Segerblom.
Roll call on Senate Joint Resolution No. 15:
YEAS—27.
NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Stewart, Woodbury—15.
Senate Joint Resolution No. 15 having received a constitutional majority, Mr. Speaker declared it passed.
Resolution ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 164 and 340 be taken from the Chief Clerk's desk and placed on the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 279.
Bill read third time.
Remarks by Assemblymen Ohrenschall, Horne, Kirner, and Smith.
Roll call on Assembly Bill No. 279:
YEAS—32.
NAYS—Brooks, Carlton, Carrillo, Daly, Diaz, Ellison, Hansen, Horne, Neal, Pierce—10.
Assembly Bill No. 279 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.
Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Assembly Bill No. 406.
Bill read third time.
Roll call on Assembly Bill No. 406:
YEAS—42.
NAYS—None.
Assembly Bill No. 406 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Assembly Bill No. 487.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Assembly Bill No. 487:
YEAS—42.
NAYS—None.

Assembly Bill No. 487 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Senate Bill No. 493.

Bill read third time.

Roll call on Senate Bill No. 493:

YEAS—39.

NAYS—Ellison, Goedhart, Hansen—3.

Senate Bill No. 493 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Senate Bill No. 164.

Bill read third time.

Roll call on Senate Bill No. 164:

YEAS—26.

NAYS—Atkinson, Ellison, Goedhart, Hambrick, Hammond, Hansen, Hardy, Kirkpatrick, Kirner, Livermore, McArthur, Munford, Sherwood, Smith, Stewart, Woodbury—16.

Senate Bill No. 164 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 340.

Bill read third time.

Remarks by Assemblymen Mastroluca, Sherwood, Frierson, and Carlton.

Roll call on Senate Bill No. 340:

YEAS—34.

NAYS—Ellison, Goedhart, Hansen, Hickey, Kirner, Livermore, McArthur, Sherwood—8.

Senate Bill No. 340 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 115, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

APRIL MASTROLUCA, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 115.

Bill read third time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 984.

AN ACT relating to health care; requiring certain hospitals and physicians to accept certain amounts as payment in full for the provision of certain services and care to certain patients; providing an exception under certain circumstances; requiring the submission of certain reports relating to policies of health insurance and similar contractual agreements by certain third parties who issue those policies and agreements; requiring the Administrator of the Health Division of the Department of Health and Human Services to study issues relating to policies of health insurance and similar contractual agreements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a hospital is required to provide emergency services and care and to admit certain patients where appropriate, regardless of the financial status of the patient. (NRS 439B.410) Existing law also requires certain major hospitals to reduce total billed charges by at least 30 percent for hospital services provided to certain patients who have no insurance or other contractual provision for the payment of the charges by a third party. (NRS 439B.260) **Section 13** of this bill requires an out-of-network hospital with 100 or more beds that is not operated by a federal, state or local governmental entity to accept, under certain circumstances, as payment in full for the provision of any medical screening and emergency services and care to stabilize a patient who arrives at the out-of-network hospital through an emergency transport an amount which equals ~~[115]~~ **60** percent of the ~~[amount set forth in the schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry]~~ **billed charges of the out-of-network hospital** for costs associated with services and care provided to a patient for treatment other than treatment of a traumatic injury, and ~~[120]~~ **70** percent of the ~~[amount set forth in that schedule of fees and charges]~~ **billed charges of the out-of-network hospital** for costs associated with services and care provided to the patient for treatment of a traumatic injury. **In addition, section 13 provides that if the billed charges are increased, the amount required to be paid for the average billed charges must not increase by more than 5 percent. Section 14** of this bill similarly requires an out-of-network physician of an out-of-network hospital with 100 or more beds to accept as payment in full for the provision of medical screening and emergency services and care to stabilize a patient an amount which is based on the schedule of fees and charges established by the Division of Industrial Relations. A physician who provides services and care to the patient for treatment other than treatment of a traumatic injury will receive an amount equal to 115 percent of the amount set forth in that schedule of fees and charges, an anesthesiologist will receive an amount equal to 120 percent of the amount set forth in that schedule of fees and charges, and a physician who provides services and care to the

patient for treatment of a traumatic injury will receive 120 percent of the amount set forth in that schedule of fees and charges. **Section 14** excludes emergency room physicians from these provisions.

Sections 13 and 14 apply only to certain third party insurers organized as nonprofit entities and do not apply to Medicaid or the Children's Health Insurance Program. Sections 13 and 14 require the third party to provide for the transfer of the patient to an in-network hospital within 8 hours after the out-of-network hospital notifies the third party that the patient has been stabilized. After that period, if the patient remains at the out-of-network hospital, the parties must negotiate a rate or the total billed charges will apply. Sections 13 and 14 **also** allow an out-of-network hospital and an out-of-network physician to negotiate a different amount of payment if the hospital or physician believes that the amount provided pursuant to those sections does not provide a fair and reasonable rate of return in relation to the services provided. ~~[In addition, section 13 requires that a patient be transferred to an in-network hospital within a certain period after which the third party will be responsible for the billed charges if the patient has not been transferred.]~~ **Section 14.5** of this bill provides the process for submitting a dispute regarding the fair and reasonable rate of return to mediation.

Section 16 of this bill requires a third party who wishes to pay the amounts prescribed pursuant to **sections 13 and 14** to maintain an adequate network of providers and submit certain reports to the Administrator of the Health Division of the Department of Health and Human Services and to the Legislative Committee on Health Care. **Section 1** of this bill requires the Administrator of the Health Division to determine whether third parties have adequate networks. **Section 11** of this bill provides that the provisions of this bill apply only to certain insurers that are organized as nonprofit entities. **Section 12.7** of this bill provides that the provisions of this bill do not apply to Medicaid or to the Children's Health Insurance Program.

Section 21.5 of this bill limits the application of the bill so that it applies prospectively to contracts that expire on or after January 1, 2012. Section 22 of this bill provides that the provisions of this bill expire by limitation on January 1, 2018.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of sections 2 to 16, inclusive, of this act, the Administrator shall:

(a) Study the information received pursuant to section 16 of this act and prescribe standards of adequacy based on the results of that study.

(b) Determine whether the network of hospitals and physicians established by each third party in this State meets the standards of adequacy prescribed by the Administrator.

2. On or before July 1 of each year, the Administrator shall prepare a report of the standards of adequacy for networks prescribed pursuant to subsection 1 and:

(a) Make the report available to the public; and

(b) Provide to the Legislative Committee on Health Care and the Commissioner of Insurance a copy of the report.

3. As used in this section, "third party" has the meaning ascribed to it in section 11 of this act.

Sec. 1.5. Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 12.5, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Air ambulance" has the meaning ascribed to it in NRS 450B.030.***

Sec. 4. ***"Ambulance" has the meaning ascribed to it in NRS 450B.040.***

Sec. 5. ***"Emergency services and care" has the meaning ascribed to it in NRS 439B.410.***

Sec. 6. ***"Fire-fighting agency" has the meaning ascribed to it in NRS 450B.072.***

Sec. 7. ***"In-network hospital" means, for a particular patient, a hospital which has entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.***

Sec. 8. ***"In-network physician" means, for a particular patient, a physician who has entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.***

Sec. 8.5. ***"Medical screening" means the medical screening required to be provided to a patient in the emergency department of a hospital pursuant to 42 U.S.C. § 1395dd.***

Sec. 9. ***"Out-of-network hospital" means, for a particular patient, a hospital which has not entered into a contract with a third party for the provision of health care to persons who are covered by a policy of***

insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.

Sec. 10. *"Out-of-network physician" means, for a particular patient, a physician who has not entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.*

Sec. 11. *1. Except as otherwise provided in subsection 2, "third party" includes, without limitation:*

(a) An insurer, as that term is defined in NRS 679B.540;

(b) A health benefit plan, as that term is defined in NRS 689A.540, for employees which provides coverage for emergency services and care at a hospital;

(c) A participating public agency, as that term is defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of such officers and employees, pursuant to chapter 287 of NRS; and

(d) Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.

2. The term includes only an entity described in subsection 1 which is a nonprofit entity that qualifies under section 501(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c), as amended.

Sec. 12. *"To stabilize" and "stabilized" have the meanings ascribed to them in 42 U.S.C. § 1395dd.*

Sec. 12.5. *"Traumatic injury" means any acute injury which, according to standardized criteria for triage in the field, involves a significant risk of death or the precipitation of complications or disabilities.*

Sec. 12.7. *The provisions of sections ~~[1]~~ 2 to 16, inclusive, of this act do not apply to the services of a hospital or physician provided to a recipient of Medicaid under the State Plan for Medicaid or to a person who is covered by insurance through the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department.*

Sec. 13. *1. Except as otherwise provided in this section, an out-of-network hospital with 100 or more beds that is not operated by a federal, state or local governmental agency shall accept as payment in full for the provision of any medical screening and emergency services and care to stabilize a patient an amount in accordance with subsection 2 if:*

(a) The patient was transported to the out-of-network hospital by an ambulance, air ambulance or vehicle of a fire-fighting agency which has received a permit to operate pursuant to chapter 450B of NRS;

(b) The patient has a policy of insurance or other contractual agreement with a third party that provides coverage for medical screening and emergency services and care; ~~[and]~~

(c) The third party that provides coverage to the patient has more than one in-network hospital in this State ~~[.]~~ ; and

(d) The out-of-network hospital, within the immediately preceding 12 months, had a contractual agreement with the third party that provides coverage to the patient to be an in-network hospital for the provision of all types of services and care to persons for whom the third party provided coverage.

2. Except as otherwise provided in this section, an out-of-network hospital with 100 or more beds which is not operated by a federal, state or local governmental agency that provides to a patient described in subsection 1 a medical screening or emergency services and care to stabilize the patient shall accept as payment in full for such medical screening or emergency services and care an amount which equals:

(a) For costs associated with services and care provided to the patient for treatment other than treatment of a traumatic injury, ~~[115]~~ 60 percent of the ~~[amount set forth in the current schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616C.260.]~~ billed charges of the out-of-network hospital.

(b) For costs associated with services and care provided to the patient for treatment of a traumatic injury, ~~[120]~~ 70 percent of the ~~[amount set forth in the current schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616C.260.]~~ billed charges of the out-of-network hospital.

3. An out-of-network hospital is not required to accept as payment in full the amount prescribed in subsection 2 if:

(a) The network of the third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient does not meet the standards of adequacy, as prescribed by the Administrator of the Health Division of the Department pursuant to section 1 of this act;

(b) The third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient has not submitted the quarterly reports required by section 16 of this act;

(c) When applicable, the third party which provides coverage to the patient has not, in good faith, participated in a negotiation or mediation pursuant to subsection ~~[4,]~~ 5;

(d) The patient does not pay or arrange with the out-of-network hospital for the payment of the deductible, copayment or coinsurance that the patient would otherwise have paid for the provision of the emergency

services and care at an in-network hospital within 30 days after the patient received the bill from the out-of-network hospital ~~[explaining]~~ for the amount owed by the patient; or

(e) The third party does not pay the out-of-network hospital for the emergency services and care within 30 days after receipt of the bill or, if applicable, within 30 days after the conclusion of any negotiation, mediation, arbitration or action between the third party and the out-of-network hospital.

4. If the out-of-network hospital increases the average amount of billed charges at any time within 12 months after the expiration of a contractual agreement with a third party that is subject to the provisions of this section, the out-of-network hospital must inform the third party of the increase and, if the average amount of the increase in billed charges is greater than 5 percent, the percentages listed in paragraphs (a) and (b) of subsection 2 must be adjusted so that the increase in the actual amount of the average billed charges required to be paid does not exceed an increase of 5 percent. When such an increase occurs, upon request, the out-of-network hospital must allow the third party to review the billed charges of the out-of-network hospital.

5. If an out-of-network hospital believes that the amounts prescribed in subsection 2 do not provide a fair and reasonable rate of return in relation to the services and care provided by the out-of-network hospital, the out-of-network hospital may enter into negotiations with the third party which provides coverage to the patient to reach an agreement regarding a fair and reasonable rate of return. If such negotiations do not result in an agreement regarding a fair and reasonable rate of return, the out-of-network hospital may request mediation as provided in section 14.5 of this act. An out-of-network hospital may not commence an action in court until the matter has been submitted to mediation pursuant to section 14.5 of this act unless the parties agree in writing to waive mediation.

~~[5. A person who]~~

6. If an out-of-network hospital becomes aware that a patient is covered by a policy of insurance or other contractual agreement ~~[that provides coverage for the provision of health care who is a patient at an out-of-network hospital must be transferred]~~ with a third party, the out-of-network hospital must notify the third party of the status of the patient not later than 2 hours after determining that the patient has such coverage and shall notify the third party when the patient has been stabilized. The third party which has been notified that the patient has been stabilized shall ensure that the patient is transferred to an in-network hospital within ~~[12]~~ 8 hours after ~~[:~~

~~*(a) The out-of-network hospital becomes aware that the patient is covered by the third party; or*~~

~~*(b) The]*~~ ***the** out-of-network hospital informs the third party that the patient has been stabilized,*

~~*[— whichever is later,]*~~ ***unless the out-of-network hospital and the third party agree to allow the patient to remain at the out-of-network hospital and agree to the amount that may be billed for any services provided after that time. If no such agreement is reached within ~~[12]~~ 8 hours and the patient is not transferred to an in-network hospital, the third party must pay the billed charges of the out-of-network hospital for any services provided after that time.***

7. During the period that a patient remains at an out-of-network hospital before the patient is required to be transferred pursuant subsection 6, the out-of-network hospital shall continue to accept as payment in full for costs associated with any care or services provided to the patient the amount prescribed in subsection 2.

Sec. 14. ***1. Except as otherwise provided in this section, an out-of-network physician who provides services to a patient at a hospital with 100 or more beds shall accept as payment in full for the provision of any medical screening and emergency services and care to stabilize the patient an amount in accordance with subsection 2 if:***

(a) The patient was transported to the out-of-network hospital by an ambulance, air ambulance or vehicle of a fire-fighting agency which has received a permit to operate pursuant to chapter 450B of NRS;

(b) The patient has a policy of insurance or other contractual agreement with a third party that provides coverage for the provision of health care; and

(c) The third party has more than one in-network physician in this State who provides the type of services and care that were provided by the out-of-network physician.

2. Except as otherwise provided in this section, an out-of-network physician who provides to a patient described in subsection 1 a medical screening or emergency services and care to stabilize the patient shall accept as payment in full for such medical screening or emergency services and care an amount which equals:

(a) For services and care provided to the patient for treatment other than treatment of a traumatic injury, 115 percent of the amount set forth in the current schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616C.260.

(b) For services and care provided to the patient by an anesthesiologist, regardless of whether the services and care are for treatment of a traumatic

injury, 120 percent of the amount set forth in the current schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616C.260.

(c) For services and care provided to the patient for treatment of a traumatic injury, 120 percent of the amount set forth in the current schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616C.260.

3. An out-of-network physician is not required to accept as payment in full the amount prescribed in subsection 2 if:

(a) The network of the third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient does not meet the standards of adequacy, as prescribed by the Administrator of the Health Division of the Department pursuant to section 1 of this act;

(b) The third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient has not submitted the quarterly reports required by section 16 of this act;

(c) When applicable, the third party which provides coverage to the patient has not, in good faith, participated in a negotiation or mediation pursuant to subsection 4;

(d) The patient does not pay or arrange for the payment of the deductible, copayment or coinsurance that the patient would otherwise have paid for the provision of emergency services and care to an in-network physician within 30 days after the patient has received the bill from the out-of-network physician ~~*[explaining]*~~ ***for the amount owed by the patient; or***

(e) The third party does not pay the out-of-network physician for the services and care within 30 days after receipt of the bill or, if applicable, within 30 days after the conclusion of any negotiation, mediation, arbitration or action between the third party and the out-of-network physician.

4. If an out-of-network physician believes that the amounts prescribed in subsection 2 do not provide a fair and reasonable rate of return in relation to the services and care provided by the out-of-network physician, the out-of-network physician may enter into negotiations with the third party which provides coverage to the patient to reach an agreement regarding a fair and reasonable rate of return. If such negotiations do not result in an agreement regarding a fair and reasonable rate of return, the out-of-network physician may request mediation as provided in section 14.5 of this act. An out-of-network physician may not commence an action in court until the matter has been submitted to mediation pursuant to

section 14.5 of this act unless the parties agree in writing to waive mediation.

5. During the period that a patient remains at an out-of-network hospital before the patient is required to be transferred pursuant to subsection 6 of section 13 of this act, the out-of-network physician shall continue to accept as payment in full for services or care provided to the patient the amount prescribed in subsection 2. If a patient remains at [an] the out-of-network hospital after the time by which the patient is required to be transferred pursuant to subsection [5] 6 of section 13 of this act to an in-network hospital, the third party which provides coverage to the patient must pay the billed charges to the out-of-network physician after that time unless the third party and the out-of-network physician have agreed to a different amount that may be billed.

6. The provisions of this section do not apply to an emergency room physician who has a contract with the hospital or who is on the staff of the hospital and who provides services to patients in the emergency department of the hospital.

Sec. 14.5. ***1. If negotiations pursuant to subsection [4] 5 of section 13 or subsection 4 of section 14 of this act have not resulted in an agreement regarding a fair and reasonable rate of return in relation to the services and care provided to a patient and the out-of-network hospital or out-of-network physician, as applicable, requests mediation, the parties may select a mediator, or if the parties do not agree upon a mediator, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential mediators. If the parties are unable to agree upon which mediation service to use, the Federal Mediation and Conciliation Service must be used. The parties shall select the mediator from the list by alternately striking one name until the name of only one mediator remains, who will be the mediator to hear the dispute. The out-of-network hospital or the out-of-network physician, as applicable, shall strike the first name.***

2. If mediation is requested, the mediator must be selected at the time the parties agree to mediation or, if the parties do not agree upon a mediator, within 5 days after the parties receive the list of potential mediators.

3. The mediator shall bring the parties together as soon as possible and, unless otherwise agreed upon by the parties, attempt to settle the dispute within 30 days after being notified of the mediator's selection as mediator. The mediator may establish the times and dates for meetings and compel the parties to attend but has no power to compel the parties to agree.

4. Each party to the mediation shall pay one-half of the cost of mediation and shall pay its own costs of preparation and presentation of its case in mediation.

5. The patient must not be required to participate in the mediation.

6. If the parties are unable to reach an agreement through mediation, the parties may agree to submit the dispute to arbitration for resolution or an action may be commenced in a court of competent jurisdiction within 30 days after the completion of the mediation. If submitted to arbitration, the decision is final and binding upon the parties and the provisions of NRS 38.206 to 38.248, inclusive, apply.

Sec. 15. (Deleted by amendment.)

Sec. 16. ***1. If a third party which issues a policy of insurance or other contractual agreement that provides coverage for health care in this State wishes for out-of-network hospitals and out-of-network physicians to accept as payment in full the amounts prescribed in sections 13 and 14 of this act, the third party shall:***

(a) Compile a list of the in-network hospitals and in-network physicians of the third party and review information concerning the in-network hospitals and in-network physicians to determine whether a person who is covered by that policy of insurance or other contractual agreement that provides coverage for health care has adequate access to health care, including, without limitation, a review of:

(1) The number and types of in-network hospitals and in-network physicians, including, without limitation, emergency room physicians, anesthesiologists and specialty physicians;

(2) The location of the in-network hospitals and in-network physicians compared to the location where the persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care live and work;

(3) Whether a person who is covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care has access to in-network hospitals and in-network physicians without experiencing an unreasonable delay in the provision of health care;

(4) Whether the third party has an adequate number of providers of health care in its network to ensure access to emergency services and care, as determined by the Administrator of the Health Division of the Department pursuant to section 1 of this act; and

(5) The in-network hospitals which provide medical screenings and emergency services and care and the number and type of in-network physicians who have privileges at those in-network hospitals to ensure that

the third party has contracted with a sufficient number and type of physicians at those in-network hospitals.

(b) Review the frequency with which persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care receive medical screenings and emergency services and care by out-of-network physicians at in-network hospitals and the rate at which those medical screening and emergency services and care are reimbursed by the third party.

(c) Ensure that persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care receive adequate information regarding in-network hospitals and in-network physicians and the financial impact of receiving medical screenings or emergency services and care from out-of-network hospitals and out-of-network physicians, including, without limitation, the financial impact of receiving medical screenings and emergency services and care from an out-of-network physician at an in-network hospital. The information must be provided in a format that is meaningful for persons making an informed decision concerning medical screenings and emergency services and care and must be accessible to persons covered by the policy of insurance or other contractual agreement.

(d) Submit once each calendar quarter to the Administrator of the Health Division of the Department and the Legislative Committee on Health Care a report containing a summary of the information collected pursuant to this subsection and the educational efforts undertaken pursuant to paragraph (c).

2. If an out-of-network hospital or out-of-network physician is required to accept as payment in full the amounts prescribed in section 13 and 14 of this act, as applicable, the third party which issues a policy of insurance or other contractual agreement that provides coverage for health care in this State is not entitled to any other discount from the out-of-network hospital or out-of-network physician and, except as otherwise provided in sections 13 and 14 of this act, must pay the amount provided pursuant to sections 13 and 14 of this act, as applicable, for each charge covered by those sections for care provided to the patient.

3. An out-of-network hospital or out-of-network physician which is required to accept as payment in full the amount prescribed in sections 13 and 14 of this act, as applicable, shall not collect or attempt to collect from the patient any amount other than any deductible, copayment or coinsurance which the patient would otherwise be required to pay had the medical screening or emergency services and care been provided at an in-network hospital or by an in-network physician, as applicable.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. 1. On or before June 30, 2014, the Legislative Committee on Health Care shall review the provisions of this act, including, without limitation, the amount of payment set forth in sections 13 and 14 of this act, to determine whether out-of-network hospitals and out-of-network physicians subject to the provisions of this act are being adequately compensated for the provision of medical screenings and emergency services and care, as those terms are defined in sections 5 and 8.5 of this act.

2. The Legislative Committee on Health Care shall forward to the Assembly Standing Committee on Health and Human Services and the Senate Standing Committee on Health and Education the results of the review conducted pursuant to subsection 1 and any proposed changes to the provisions of this act, including, without limitation, the amount of payment prescribed by sections 13 and 14 of this act.

Sec. 21.5. **The provisions of this act apply only if a third party, as defined in section 11 of this act, and a hospital or physician, as applicable, have a contractual agreement whereby the hospital or physician provides services as an in-network hospital for the provision of all types of services and care or as an in-network physician, as applicable, for persons for whom the third party provides coverage which expires on or after January 1, 2012.**

Sec. 22. This act becomes effective on January 1, 2012 **~~.~~** **and expires by limitation on January 1, 2018.**

Assemblywoman Mastroluca moved the adoption of the amendment.

Remarks by Assemblywoman Mastroluca.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 115.

Bill read third time.

Remarks by Assemblymen Mastroluca and Livermore.

Roll call on Senate Bill No. 115:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.

Senate Bill No. 115 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 511.

The following Senate amendment was read:

Amendment No. 938.

AN ACT relating to transportation; providing certain privileges to the owner or long-term lessee of a qualified ~~[plug-in electric drive]~~ **alternative fuel** 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]~~ **alternative fuel** vehicle" in **such** a manner ~~[substantially similar]~~ **as** to **include within** the definition ~~[used by the Internal Revenue Service for the purpose of the tax credit made available for the initial acquisition of such]~~ **both plug-in** vehicles **~~[.]~~ that are powered by an electric motor, and vehicles which are powered by an alternative fuel and meet specified federal emissions standards.** **Section 7** of this bill requires that, with limited exceptions, each local authority shall establish a parking program for qualified ~~[plug-in electric drive]~~ **alternative fuel** 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]~~ **alternative fuel** 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]~~ **alternative fuel** 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]~~ **5.3 to** 8 **, inclusive,** of this act.

Sec. 5.3. *"**Original equipment manufacturer" means the original manufacturer of a new vehicle or engine, or relating to the vehicle or engine in its original, certified configuration.***

Sec. 5.7. *"**Qualified alternative fuel" means compressed natural gas, hydrogen or propane.***

Sec. 6. *"**Qualified ~~[plug-in electric drive]~~ alternative fuel vehicle" means a motor vehicle that:*

1. Is equipped with four wheels;

2. Is made by ~~[a]~~ :

(a) An original equipment manufacturer; or

(b) A qualified vehicle modifier of alternative fuel vehicles;

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) To a significant extent by an electric motor which draws electricity from a battery that:

~~[(a)]~~ (1) Has a capacity of not less than 4 kilowatt hours; and

~~[(b)]~~ (2) Can be recharged from a source of electricity that is external to the vehicle ~~[.]~~ ; or

(b) Solely by a qualified alternative fuel, and meets or exceeds the federal Tier 2 bin 2 exhaust emission standard, as set forth in 40 C.F.R. § 86.1811-04.

Sec. 6.5. *"**Qualified vehicle modifier of alternative fuel vehicles" means a manufacturer directly authorized by an original equipment manufacturer to modify a vehicle produced by an original equipment manufacturer to run on a qualified alternative fuel.***

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]~~ alternative fuel vehicles pursuant to this section.***

2. Upon the application of the owner or long-term lessee of a qualified ~~[plug-in electric drive]~~ alternative fuel 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]~~ **alternative fuel** vehicle from other vehicles.*

3. The 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]~~ **alternative fuel** 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]~~ **alternative fuel** 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]~~ **alternative fuel** 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]~~ **alternative fuel** vehicles, including, without limitation:*

*(a) Requiring that the driver of a qualified ~~[plug-in electric drive]~~ **alternative fuel** 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]~~ **alternative fuel** 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]*~~ ***sections 5.3 to 6.5, inclusive, 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]*~~ ***alternative fuel 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,]~~ **5.3 to** 7, **inclusive,** 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,]~~ **to** 7, **inclusive,** 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]~~ **to** 7 **, inclusive,** of this act;

(b) The amendatory provisions of sections 9, 10 and 11 of this act; and

(c) Subsections 2 and 3 of section 12 of this act.

Assemblywoman Smith moved that the Assembly concur in the Senate Amendment No. 938 to Assembly Bill No. 511.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 562.

The following Senate amendment was read:

Amendment No. 891.

AN ACT relating to the Public Employees' Benefits Program; revising provisions governing the subsidy for coverage of certain retired persons under the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the payment of a subsidy to cover a portion of the cost of coverage under the Public Employees' Benefits Program for certain retired officers and employees with state service. (NRS 287.046) This bill specifies the subsidy for a retired person whose coverage is provided through the Program by an individual medical plan offered pursuant to the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., which is commonly known as Medicare.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 287.046 is hereby amended to read as follows:

287.046 1. The Department of Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service **.** ~~[before January 1, 1994, or under the circumstances set forth in paragraph (a), (b) or (c) of subsection 3.]~~

2. The money assessed pursuant to subsection 1 must be deposited into the Retirees' Fund and must be based upon an amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for such retirees.

3. Except as otherwise provided in ~~[subsection 4,]~~ ***subsections*** ~~*[6]*~~ ***7 and*** ~~*[7,]*~~ ***8,*** the portion to be paid to the Program from the Retirees' Fund on behalf of such persons must be equal to a portion of the cost for each retiree and the retiree's dependents who are enrolled in the plan, as defined for each year of the plan by the Program.

~~[3. Adjustments]~~

4. Except as otherwise provided in subsection 6, the portion of the amount approved by the Legislature as described in subsection 2 to be paid to the Program from the Retirees' Fund for persons who retired before January 1, 1994, with state service is the base funding level defined for each year of the plan by the Program.

5. Except as otherwise provided in subsection ~~*[5,]*~~ ***6, adjustments*** to the portion ***of the amount approved by the Legislature*** ~~*[pursuant to]*~~ ***as described in subsection 2 to be*** paid by the Retirees' Fund ~~[must be as follows:~~

~~(a) For]~~ ***for*** persons who retire on or after January 1, 1994, with state service ~~[:~~

~~(1)]~~ ***must be as follows:***

(a) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.

~~[(2)]~~ ***(b)*** For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.

~~[(b) For persons who are]~~

~~[5.]~~ ***6. The portion to be paid to the Program from the Retirees' Fund on behalf of a retired person whose coverage is provided through the Program by an individual medical plan offered pursuant to the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., must be:***

(a) For persons who retired before January 1, 1994, the base funding level defined by the Legislature multiplied by 15.

(b) For persons who retired on or after January 1, 1994, the base funding level defined by the Legislature multiplied by the number of years of service of the person, excluding service purchased pursuant to NRS 1A.310 or 286.300, up to a maximum of 20 years of service.

~~[6.]~~ ***7. No money may be paid by the Retirees' Fund on behalf of a retired person who is*** initially hired by the State on or after January 1, 2010, and who ~~[retire with at least 15 years of service credit, which must include state service and may include local governmental service, and who have]~~ ***:***

(a) Has not participated in the Program on a continuous basis since ~~[their]~~ retirement from such employment ~~[, for each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~(c) For persons who are initially hired by the State on or after January 1, 2010, and who retire with at least 5 years of service credit, which must include state service and may include local governmental service, who do]~~ ***; or***

(b) Does not have at least 15 years of service ~~[credit to qualify under paragraph (b) as]~~ ***, unless the retired person does not have at least 15 years of service as*** a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education, and ~~[who have]~~ ***has*** participated in the Program on a continuous basis since ~~[their]~~ retirement from such employment ***.*** ~~[:~~

~~(1) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.~~

~~(2) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the~~

~~adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~4.~~ *~~7.~~* ***8.*** If the amount calculated pursuant to subsection ~~3~~ *~~4 or~~* ***5 or 6*** exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Program Fund.

~~5.~~ *~~8.~~* ***9.*** For the purposes of ~~subsection 1:~~ ***this section:***

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of state service.

~~6.~~ *~~9.~~* ***10.*** The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and the retired participant's dependents to the retired participant and to the retired participant's dependents who elect to continue coverage under the Program after the retired participant's death.

Sec. 2. This act becomes effective on July 1, 2011.

Assemblywoman Smith moved that the Assembly concur in the Senate Amendment No. 891 to Assembly Bill No. 562.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 98, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 857 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 16, which is attached to and hereby made a part of this report.

JOHN OCEGUERA	MO DENIS
MARILYN KIRKPATRICK	DAVID PARKS
PETE GOICOECHEA	MIKE MCGINNESS
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA16.

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~~ **Existing law states that certain persons may, and certain persons may not, be members of** employee organizations ~~during~~

for the purposes of collective bargaining. **(NRS 288.140)** ~~[Sections 1, 1.7, 3 and 4]~~ **Section 6** of this bill ~~[require]~~ **sets forth** 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]~~ **following persons are prohibited from being a member of** 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.]~~ **: (1) supervisory employees who have additional authority on behalf of the employer to make budgetary decisions and decisions relating to collective bargaining; (2) doctors and physicians who are employed by a local government employer; and (3) attorneys who are employed by a local government employer and assigned to a civil division, department or agency, except for the duration of a collective bargaining agreement to which the attorney is a party as of July 1, 2011.**

Under existing law, a supervisory employee is prohibited from being a member of the same bargaining unit as the employees under his or her direction. (NRS 288.170) Section 5 of this bill revises the definition of "supervisory employee" (NRS 288.075) to create a second subset of supervisory employees who, on behalf of their employer, make budgetary decisions and decisions relating to collective bargaining. Section 8 of this bill makes technical changes to reflect that section 5 now sets forth two subsets of supervisory employees.

Existing law sets forth the subjects over which local government employers and recognized employee organizations are required to bargain (mandatory bargaining), and the subjects that are reserved to such an employer without negotiation. (NRS 288.150) Section 7 of this bill adds to the list of mandatory bargaining topics the reopening of collective bargaining agreements in instances of fiscal emergency.

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.]***~~ **(Deleted by amendment.)**

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.**]**~~ **(Deleted by amendment.)**

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 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~~ **[**~~, an~~**]** ~~:~~

(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~~ **[**~~.~~**]** ***; 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.~~**]** **(Deleted by amendment.)**

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~~ **[**, an**]** ~~:~~

~~***(a) An*** analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment**[**.**]** ~~;~~

~~***(b) The estimated total cost of any contract resulting from the decision, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of firefighters or police officers, as applicable, during the period of the contract in lieu of equivalent base salary increases or cost-of-living increases, or both, in the employees' salaries; and***~~

~~***(c) The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.]***~~

(Deleted by amendment.)

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~~ **[**~~, an~~**]** ~~**.**~~

~~***(a) An*** analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment~~ **[**~~.~~**]** ~~**,**~~

~~***(b) The estimated total cost of any contract resulting from the decision, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the 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.~~**]** **(Deleted by amendment.)**

Sec. 5. **NRS 288.075 is hereby amended to read as follows:**

288.075 1. "Supervisory employee" means ~~**[**any~~**]** **:**

(a) Any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday ~~[.]~~ ***; or***

(b) Any individual or class of individuals appointed by the employer and having authority on behalf of the employer to:

(1) Hire, transfer, suspend, lay off, recall, terminate, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or to effectively to recommend such action;

(2) Make budgetary decisions; and

(3) Be consulted on decisions relating to collective bargaining,

➥ if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday.

2. Nothing in this section shall be construed to mean that an employee who has been given incidental administrative duties shall be classified as a supervisory employee.

Sec. 6. **NRS 288.140 is hereby amended to read as follows:**

288.140 1. It is the right of every local government employee, subject to the ~~[limitation]~~ ***limitations*** provided in ~~[subsection]~~ ***subsections*** 3 ~~[,]~~ ***and 4,*** to join any employee organization of the employee's choice or to refrain from joining any employee organization. A local government employer shall not discriminate in any way among its employees on account of membership or nonmembership in an employee organization.

2. The recognition of an employee organization for negotiation, pursuant to this chapter, does not preclude any local government employee who is not a member of that employee organization from acting for himself or herself with respect to any condition of his or her employment, but any action taken on a request or in adjustment of a grievance shall be consistent with the terms of an applicable negotiated agreement, if any.

3. A police officer, sheriff, deputy sheriff or other law enforcement officer may be a member of an employee organization only if such employee organization is composed exclusively of law enforcement officers.

4. The following persons may not be a member of an employee organization:

(a) A supervisory employee described in paragraph (b) of subsection 1 of NRS 288.075, including but not limited to appointed officials and department heads who are primarily responsible for formulating and administering management, policy and programs.

(b) A doctor or physician who is employed by a local government employer.

(c) Except as otherwise provided in this paragraph, an attorney who is employed by a local government employer and who is assigned to a civil law division, department or agency. The provisions of this paragraph do not apply with respect to an attorney for the duration of a collective bargaining agreement to which the attorney is a party as of July 1, 2011.

5. As used in this section, "doctor or physician" means a doctor, physician, homeopathic physician, osteopathic physician, chiropractic physician, practitioner of Oriental medicine, podiatric physician or practitioner of optometry, as those terms are defined or used, respectively, in NRS 630.014, 630A.050, 633.091, chapter 634 of NRS, chapter 634A of NRS, chapter 635 of NRS or chapter 636 of NRS.

~~[Sec. 5.]~~ ***Sec. 7.*** **NRS 288.150 is hereby amended to read as follows:**

288.150 1. Except as provided in subsection 4, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

(a) Salary or wage rates or other forms of direct monetary compensation.

(b) Sick leave.

(c) Vacation leave.

(d) Holidays.

(e) Other paid or nonpaid leaves of absence.

(f) Insurance benefits.

(g) Total hours of work required of an employee on each workday or workweek.

(h) Total number of days' work required of an employee in a work year.

(i) Discharge and disciplinary procedures.

(j) Recognition clause.

(k) The method used to classify employees in the bargaining unit.

(l) Deduction of dues for the recognized employee organization.

(m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.

(n) No-strike provisions consistent with the provisions of this chapter.

(o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

(p) General savings clauses.

(q) Duration of collective bargaining agreements.

(r) Safety of the employee.

(s) Teacher preparation time.

(t) Materials and supplies for classrooms.

(u) The policies for the transfer and reassignment of teachers.

(v) Procedures for reduction in workforce.

(w) Procedures and requirements for the reopening of collective bargaining agreements that exceed 1 year in duration for additional, further, new or supplementary negotiations during periods of fiscal emergency. The requirements for the reopening of a collective bargaining agreement must include, without limitation, measures of revenue shortfalls or reductions relative to economic indicators such as the Consumer Price Index, as agreed upon by both parties.

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including without limitation workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken

under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. This section does not preclude, but this chapter does not require the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

7. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 8. **NRS 288.170 is hereby amended to read as follows:**

288.170 1. Each local government employer which has recognized one or more employee organizations shall determine, after consultation with the recognized organization or organizations, which group or groups of its employees constitute an appropriate unit or units for negotiating. The primary criterion for that determination must be the community of interest among the employees concerned.

2. A principal, assistant principal or other school administrator below the rank of superintendent, associate superintendent or assistant superintendent shall not be a member of the same bargaining unit with public school teachers unless the school district employs fewer than five principals but may join with other officials of the same specified ranks to negotiate as a separate bargaining unit.

3. A head of a department of a local government, an administrative employee or a supervisory employee must not be a member of the same bargaining unit as the employees under the direction of that department head, administrative employee or supervisory employee. Any dispute between the parties as to whether an employee is a supervisor must be submitted to the Board. An employee organization which is negotiating on behalf of two or more bargaining units consisting of firefighters or police officers, as defined in NRS 288.215, may select members of the units to negotiate jointly on behalf of each other, even if one of the units consists of supervisory employees and the other unit does not.

4. Confidential employees of the local government employer must be excluded from any bargaining unit but are entitled to participate in any plan to provide benefits for a group that is administered by the bargaining unit of which they would otherwise be a member.

5. If any employee organization is aggrieved by the determination of a bargaining unit, it may appeal to the Board. Subject to judicial review, the decision of the Board is binding upon the local government employer and employee organizations involved. The Board shall apply the same criterion as specified in subsection 1.

6. As used in this section ~~[, "confidential]~~ **:**

(a) "Confidential employee" means an employee who is involved in the decisions of management affecting collective bargaining.

(b) "Supervisory employee" means a supervisory employee described in paragraph (a) of subsection 1 of NRS 288.075.

Sec. 9. This act becomes effective on July 1, 2011.

Assemblywoman Kirkpatrick moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 98.

Remarks by Assemblymen Kirkpatrick and Goicoechea.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 249, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 838 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 7, which is attached to and hereby made a part of this report.

MARILYN KIRKPATRICK	SHEILA LESLIE
DINA NEAL	DAVID PARKS
MELISSA WOODBURY	JOE HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA7.

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]~~ **or** 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)]*~~ ***paragraph (b) 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 :

(a) To ~~*[to]*~~ cause such list and valuations to be ~~[printed]~~ ***:***

~~*[(a)]*~~ ***(1) 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]~~

(2) 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 ~~[.~~

~~➥ In addition to complying with paragraph (a) or (b), the list and valuations may also be posted]~~ ~~/;~~

~~*(c)]*~~ ***; and***

(b) To cause such list and valuations to be:

(1) Posted in a public area of the public libraries and branch libraries located in the county ~~[, in a public area of the county courthouse and the county office building in which the county assessor's office is located,]~~ ***;***

~~*[(d)]*~~ ***(2) Posted at the office of the county assessor;*** and

~~*[(e)]*~~ ***(3) Published*** on ~~[a]~~ ***an Internet*** website ~~[or 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 ***subparagraph (1) of*** 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)]*~~ ***paragraph (b) of subsection 3. If such a statement is published in a newspaper, the statement must be displayed in the format used for advertisements and printed in at least 10-point bold type or font.***

(b) Any personal property billed on the unsecured tax roll is appraised or reappraised pursuant to NRS 361.260, the delivery or mailing to the owner of such property of an individual tax bill or individual tax notice for the property shall be deemed to constitute adequate notice to the owner of the

assessed valuation of the property as determined from the appraisal or reappraisal.

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site, if any, that is operated or administered by or on behalf of the county or the county assessor.

Sec. 10. NRS 361.483 is hereby amended to read as follows:

361.483 1. Except as otherwise provided in ~~[subsection 6]~~ ***this section*** and NRS 361.736 to 361.7398, inclusive, taxes assessed upon the real property tax roll and upon mobile or manufactured homes are due on the third Monday of August.

2. Taxes assessed upon the real property tax roll may be paid in four approximately equal installments if the taxes assessed on the parcel exceed $100.

3. Except as otherwise provided in this section, taxes assessed upon a mobile or manufactured home may be paid in four installments if the taxes assessed exceed $100.

4. If a taxpayer owns at least 25 mobile or manufactured homes in a county that are leased for commercial purposes, and those mobile or manufactured homes have not been converted to real property pursuant to NRS 361.244, taxes assessed upon those homes may be paid in four installments if, not later than July 31, the taxpayer returns to the county assessor the written statement of personal property required pursuant to NRS 361.265.

5. Except as otherwise provided in this section and NRS 361.505, taxes assessed upon personal property may be paid in four approximately equal installments if:

(a) The total personal property taxes assessed exceed ~~[$10,000;]~~ ***$5,000;***

(b) Not later than July 31, the taxpayer returns to the county assessor the written statement of personal property required pursuant to NRS 361.265;

(c) The taxpayer files with the county assessor, or county treasurer if the county treasurer has been designated to collect taxes, a written request to be billed in ~~[~~quarterly~~]~~ installments and includes with the request a copy of the written statement of personal property required pursuant to NRS 361.265; ~~[~~and~~]~~

(d) The ***owner of the*** personal property assessed ~~[~~is the property of a business and the business~~]~~ has paid ~~[~~its~~]~~ ***all the*** personal property taxes ***assessed on the property*** without accruing penalties for the immediately preceding 2 fiscal years in any county in the State ~~[~~.~~]~~ ***; and***

(e) Not later than September 15, the county tax receiver issues to the taxpayer an individual tax bill for the personal property which itemizes the dates on which the installments are due. If that tax bill is issued on or after August 1 and on or before September 15, the first two installments are due on the first Monday of October, the third installment on the first Monday of January, and the fourth installment on the first Monday of March.

6. ~~[~~If~~]~~ ***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 ~~[:]~~ ***, 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 ~~[at]~~ ***:***

(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 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 that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 249.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 230.

The following Senate amendment was read:

Amendment No. 727.

AN ACT relating to educational personnel; **requiring the State Board of Education to evaluate certain providers of education and training which are offered to qualify a person to be a teacher or administrator or to perform other educational functions;** requiring the Commission on Professional Standards in Education to adopt regulations prescribing the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the State Board of Education to conduct an annual evaluation of each provider approved by the State Board or the Commission on Professional Standards in Education to offer a course of study or training designed to qualify a person to be a teacher or administrator or to perform other educational functions, including qualified providers of alternative routes to licensure approved by the Commission pursuant to section 2 of this bill.

Existing law requires the Commission ~~[on Professional Standards in Education]~~ to adopt regulations prescribing the qualifications for licensing teachers and other educational personnel in this State. The regulations govern the issuance of a regular license and a special qualifications license. (NRS 391.019) The regulations are subject to the approval of the State Board **,** ~~[of Education,]~~ which has the authority to disapprove any regulation adopted by the Commission for certain specified reasons. (NRS 391.027) **Section** ~~[1 of this bill]~~ **2** requires the Commission to adopt regulations prescribing the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure and sets forth certain requirements that must be specified in those regulations, including: (1) that the required education and training may be provided by any qualified provider that has been approved by the Commission, including institutions of higher education and other providers that operate independently of an institution of higher education; (2) that the education and training required under the alternative route to licensure may be completed in 2 years or less; and (3) that, upon completion by a person of the education and training

required under the alternative route to licensure and the satisfaction of all other requirements for licensure, the person must be issued a regular license. **Section ~~[5]~~ 6** of this bill requires the Commission to adopt the regulations on or before December 31, 2011.

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:**

1. The State Board shall, on an annual basis, evaluate each provider approved by the State Board or the Commission to offer a course of study or training designed to qualify a person to be a teacher or administrator or to perform other educational functions, including, without limitation, a qualified provider approved by the Commission pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019. The evaluation must include, without limitation, for each provider, the number of persons:

(a) Who received a license pursuant to this chapter after completing the course of study or training offered by the provider; and

(b) Identified in paragraph (a) who are employed by a school district or a charter school in this State after receiving a license and information relating to the performance evaluations of those persons conducted by the school district or charter school. The information relating to the performance evaluations must be reported in an aggregated format and not reveal the identity of a person.

2. The Department shall post on its Internet website the evaluation conducted pursuant to subsection 1.

~~[Section 1.]~~ ***Sec. 2.*** NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission ~~[~~**:**

~~(a) Shall~~] ***shall*** adopt regulations:

~~[(1)]~~ ***(a)*** Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. The regulations ~~[must]~~ ***:***

(1) Must include, without limitation, the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure which provides that the required education and training may be provided by any qualified provider that has been approved by the Commission, including, without limitation, institutions of higher education and other

providers that operate independently of an institution of higher education. The regulations adopted pursuant to this subparagraph must:

(I) Establish the requirements for approval as a qualified provider;

(II) Require a qualified provider to be selective in its acceptance of students;

(III) Require a qualified provider to provide supervised, school-based experiences and ongoing support for its students, such as mentoring and coaching;

(IV) Significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests;

(V) Allow for the completion in 2 years or less of the education and training required under the alternative route to licensure; ~~*[and]*~~

(VI) ***Provide that a person who has completed the education and training required under the alternative route to licensure and who has satisfied all other requirements for licensure may apply for a regular license pursuant to sub-subparagraph (VII) regardless of whether the person has received an offer of employment from a school district, charter school or private school; and***

(VII) Upon the completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, provide for the issuance of a regular license to the person pursuant to the provisions of this chapter and the regulations adopted pursuant to this chapter.

(2) Must not prescribe qualifications which are more stringent than the qualifications set forth in NRS 391.0315 for a licensed teacher who applies for an additional license in accordance with that section.

~~[(2)]~~ ***(b)*** Identifying fields of specialization in teaching which require the specialized training of teachers.

~~[(3)]~~ ***(c)*** Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

~~[(4)]~~ ***(d)*** Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

~~[(5)]~~ ***(e)*** Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Aging and Disability Services Division of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

~~[(6)]~~ ***(f)*** Requiring teachers and other educational personnel to be registered with the Aging and Disability Services Division pursuant to

NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

~~[(I)]~~ ***(1)*** Provide instruction or other educational services; and

~~[(II)]~~ ***(2)*** Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

~~[(7)]~~ ***(g)*** Providing for the issuance and renewal of a special qualifications license to an applicant who holds a bachelor's degree, a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

~~[(I)]~~ ***(1)*** At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

~~[(II)]~~ ***(2)*** At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

➥ An applicant for licensure pursuant to this ~~[subparagraph]~~ ***paragraph*** who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring or courses of pedagogy for the first 2 years of the applicant's employment as a teacher with a school district or charter school.

~~[(8)]~~ ***(h)*** Requiring an applicant for a special qualifications license to:

~~[(I)]~~ ***(1)*** Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

~~[(II)]~~ ***(2)*** Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the bachelor's degree, master's degree or doctoral degree held by the applicant.

~~[(9)]~~ ***(i)*** Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the bachelor's degree, master's degree or doctoral degree held by that person.

~~[(10)]~~ ***(j)*** Providing for the issuance and renewal of a special qualifications license to an applicant who:

~~[(I)]~~ ***(1)*** Holds a bachelor's degree or a graduate degree from an accredited college or university in the field for which the applicant will be providing instruction;

~~[(II)]~~ ***(2)*** Is not licensed to teach public school in another state;

~~[(III)]~~ ***(3)*** Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

~~[(IV)]~~ ***(4)*** Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for

the first year of the applicant's employment as a teacher with a school district or charter school if the applicant holds a graduate degree or, if the applicant holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his or her employment as a teacher with a school district or charter school.

➥ An applicant for licensure pursuant to this ~~[subparagraph]~~ ***paragraph*** is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

~~[(b) May]~~

2. Except as otherwise provided in NRS 391.027, the Commission may adopt such other regulations as it deems necessary for its own government or to carry out its duties.

~~[2.]~~ ***3.*** Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

~~[3.]~~ ***4.*** A person who is licensed pursuant to ~~[subparagraph (7) or (10) of]~~ paragraph ~~[(a)]~~ ***(g) or (j)*** of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if the person is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 391.021 is hereby amended to read as follows:

391.021 Except as otherwise provided in ~~[subparagraph (10) of]~~ paragraph ~~[(a)]~~ ***(j)*** of subsection 1 of NRS 391.019 and NRS 391.027, the Commission shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the applicant to teach and the applicant's knowledge of each specific subject he or she proposes to teach. Each examination must include the following subjects:

1. The laws of Nevada relating to schools;

2. The Constitution of the State of Nevada; and

3. The Constitution of the United States.

➥ The provisions of this section do not prohibit the Commission from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide an exemption from the examinations for teachers and other educational personnel from another state if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.

~~[Sec. 3.]~~ ***Sec. 4.*** NRS 391.031 is hereby amended to read as follows:

391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:

1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.

2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

3. A license to teach secondary education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in any secondary school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

4. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.

5. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the Commission adopted pursuant to ~~[~~subparagraph (7) or (10) of~~]~~ paragraph ~~[~~(a)~~]~~ ***(g) or (j)*** of subsection 1 of NRS 391.019.

~~[Sec. 4.]~~ ***Sec. 5.*** NRS 391.037 is hereby amended to read as follows:

391.037 1. The State Board shall:

(a) Prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or to perform other educational functions.

(b) Maintain descriptions of the approved courses of study required to qualify for endorsements in fields of specialization and provide to an applicant, upon request, the approved course of study for a particular endorsement.

2. Except for an applicant who submits an application for the issuance of a license pursuant to subparagraph ~~[(7) or (10)]~~ ***(1)*** of paragraph (a) ***or paragraph (g) or (j)*** of subsection 1 of NRS 391.019, an applicant for a license as a teacher or administrator or to perform some other educational function must submit with his or her application, in the form prescribed by the Superintendent of Public Instruction, proof that the applicant has satisfactorily completed a course of study and training approved by the State Board pursuant to subsection 1.

~~[Sec. 5.]~~ ***Sec. 6.*** The Commission on Professional Standards in Education shall, on or before December 31, 2011, adopt the regulations required by the provisions of subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019, as amended by section ~~[1]~~ **2** of this act.

~~[Sec. 6.]~~ ***Sec. 7.*** This act becomes effective on July 1, 2011.

Assemblyman Bobzien moved that the Assembly concur in the Senate Amendment No. 727 to Assembly Bill No. 230.

Remarks by Assemblyman Bobzien.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 77, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 617 and 772 of the Senate be concurred in.

MAGGIE CARLTON	MICHAEL SCHNEIDER
PEGGY PIERCE	SHIRLEY BREEDEN
TOM GRADY	MICHAEL ROBERSON
Assembly Conference Committee	*Senate Conference Committee*

Assemblywoman Carlton moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 77.

Remarks by Assemblywoman Carlton.

Motion carried by a constitutional majority.

REMARKS FROM THE FLOOR

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks.

You might have realized it, or not, that we will be pretty much done here in about four hours, so I would like to say a few words before that happens.

Let me begin by saying it has been a pleasure to serve with all of you. The people of Nevada put a great trust in us and all of you lived up to that trust this session by the way you have conducted yourselves, stood up for your principles, and contributed to the good of our state.

I want to express my thanks to all of you for allowing me the honor of serving as Speaker of the Assembly. It has been an incredible privilege and a remarkable experience—one that I think has made me a better lawmaker, a better public servant, and, I hope, a better colleague.

This is both my first and my last session as Speaker, so your confidence means all the more to me. It is hard to believe that I will never again be elected to the people's house. And it's even harder to believe that it has been more than ten years since I sat in these chambers for the first time. I cannot help but feel a little nostalgic. My first session was back in 2001. Back then, I was a fire captain, a law student, and a bachelor. I had not yet served with Barbara Buckley, and so I thought I knew a few things, and I was prepared to share my obvious wisdom.

And you all have probably seen what I looked like ten years ago—I am convinced those pictures on the wall outside the door here remind us that once upon a time we were thinner and we had bad haircuts. If this process does not keep you humble, those pictures will.

Whatever I thought I knew when I started, I quickly discovered how much more there was to learn. I am excited for those of you who are new to this body, for the experiences, the opportunities you will have, and for all the things you will accomplish.

I now leave this body as a fire chief, husband, and father. And I leave more optimistic than ever that our state can rise to meet the challenges it faces.

In my decade of service, the legislature has taken up many difficult issues and contentious pieces of legislation. Some of those issues we still struggle with. We grappled with property tax caps and a shortage of affordable housing, and less than four years later we were tackling a foreclosure crisis. We confronted the painful realities of September 11th and enacted legislation to guard against domestic terrorism in response. We took up identity theft, predatory lending, clean energy, economic development, cybercrime, child welfare, and the rising costs of prescription drugs. And we faced the most difficult challenge of all: the Great Recession.

In these times of uncertainty, we continued to push forward with needed reforms.

We required greater transparency and accountability for the taxes owed, tax abatements, and grants and leases. We increased transparency for the use of state money and established penalties for those who abuse state funds. These reforms will engage the public in the process of setting our state's spending priorities in a meaningful way and ensure that our tax dollars are spent with the greatest efficiency, thoughtfulness and accountability.

Going forward, state agencies will be required to engage in long-term planning. Performance-based budgeting requires that we set priorities and then budget towards those goals. This will result in the improvement of worthwhile programs and the elimination of programs, agencies, boards and commissions that are not moving our state forward or serving our citizens efficiently or effectively.

We have also taken strides to make the purchasing and the delivery of health care more open and transparent than ever before. Now, consumers will have online access to critical information about health insurance policies, rates, and loss ratios. Medical facilities will be required to adopt safety checklists for health care providers and make public their rates of medical errors and the measures that have been taken to prevent them. This will result in safer, less costly health care for all Nevadans.

I am particularly proud we enacted sweeping education reforms, holding teachers and administrators accountable for their performance and rewarding educators who improve student achievement. We have done this with one goal in mind: a brighter future for our children. Because of these reforms, Nevada's children—our state's future leaders—will have greater opportunity than ever before.

We established a bidder's preference for companies that hire Nevada workers and purchase locally. This will put more Nevadans back to work and keep taxpayer dollars in our state's economy.

Nevada's families are still hurting from the Great Recession. There are still far too many people out of work and under water in their homes. But there are positive signs. Jobs and foreclosure rates have turned the corner. Thanks to your hard work and many of the policies we put in place, the recovery will continue.

Long before this legislative session started, facing the biggest budget deficit in the nation, we knew that we needed to get to work together to find common ground.

The gravity of the situation demanded we come together as Nevadans and pass legislation to boost our economy and address the budget shortfall, and I think we have done just that.

I commend this body, and Governor Sandoval, as well, for knowing that extraordinary circumstances require an open mind, cooperation, and statesmanship.

We proved the pessimists wrong. They said we would simply be too far apart from each other to reach a budget agreement. They said it could not be done. They forgot we were Nevadans first.

We are defined by our principles, not our party and by our passion for our state, not our ideologies.

In reaching a budget agreement, we preserved funding for education—the key to our economic recovery.

We laid the foundation for long term reform.

We came together when we needed to most.

We passed a balanced budget.

No one in this body is comfortable with the cuts we had to make to a state budget that was already lean from the impact of a three-year recession.

We know these cuts have real consequences. We know what they mean for our schools, our seniors, our disabled, and our disadvantaged.

We produced a balanced budget under these difficult circumstances. However, our state's future success demands that we not continue on this path.

We need to change the way Nevada funds its priorities. We have heard from our business communities that they need a Nevada with an educated work force and a broader, more stable tax base.

A Nevada where citizens have access to exceptional educational opportunities and access to services that provides a great quality of life. These are the elements needed to attract the types of industries Nevada needs to grow and diversify. That is the business-friendly environment that we must build.

We introduced a sound plan to reform our antiquated and volatile tax structure. This plan should be the starting point for a serious discussion of how to fund our state.

We started the discussion, and it is up to you who remain here to carry it on, to keep Nevada on a course to long-term economic growth and stability.

I would like to take a moment to recognize some of you who will remain in this chamber.

Majority leader Conklin coordinated our committees and our floor sessions, all the while sponsoring legislation to spur business growth and protect consumers. We could not have had such a smooth legislative session without him. I appreciate it.

Speaker pro tempore Debbie Smith, you spearheaded our education reform efforts, which led to better learning environments for our children. From your post as the chair of the Committee on Ways and Means, you conducted a thorough review of our state's spending and sponsored legislation to make government more efficient, effective, and transparent. I thank you.

Assemblywoman Marilyn Kirkpatrick–you chaired two committees, and you're probably chairing six more tonight. She reinforced her reputation as one of the toughest and most effective chairs in the building, while mentoring a bunch of our new legislators. I appreciate that as well.

I need to mention our whips, as well. Their efforts to coordinate the votes and the caucuses were an integral part of the success of this session. Without the help of William Horne, Kelvin Atkinson, Peggy Pierce, and David Bobzien we couldn't have accomplished what we did this session, so I want to thank them as well.

I'm also grateful to minority leader Goicoechea and his team. We had our differences, but we always worked together to resolve those that we could, and to accept and move on from those that we couldn't. I appreciate that. Thank you, Pete.

Also, I want to recognize the 20 freshmen legislators. I think in the toughest legislative session in recent memory, with the biggest budget deficit the state has ever seen, you have

served your state with honor and great distinction. All of you now will be, as of about four hours from now, veteran legislators. I know you will continue to make great contributions to Nevada. So, a thank you to the 20 new people, as well.

I would like to just thank everyone else in the room. You have worked so hard for your constituents and you did your job to the fullest. I think we were successful, so let's give everybody a big hand as well.

We could have never accomplished that without the tremendous support of our dedicated staff, as well. Fiscal, Legal, Research—all the divisions—assisted us in getting this job done. I would also like to include in that my leadership office staff that has worked long hours over the past few months with an expanded role this session. Without all those dedicated staff, we certainly couldn't have accomplished it as well. To the staff again, thank you. I am also just tremendously proud of all the citizens of our state who made their voices heard this session. They called. They e-mailed. They wrote. They even traveled hundreds of miles to sleep on the lawn outside. They reminded us every day of why we are all here, and that this is truly the people's house.

On a personal level, I owe a lot of thanks to my wife, Janie, for her support. She has put up with an absentee husband and co-parent for four long months. She's flying now, working or she would be here. I look forward to seeing her instead of being here with all of you–sorry.

Finally, I want to leave you with a reminder to not let the challenges of the work ahead limit what can be achieved. You are all promising leaders. In this body I see great possibility and a bright future for our state.

I am proud to have been your Speaker, and I will serve with you in the trenches anytime.

Thank you.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 8:24 p.m.

ASSEMBLY IN SESSION

At 8:49 p.m.

Mr. Speaker presiding.

Quorum present.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Speaker. Everything has sort of been said here already, I think, by the video and the comments that many of my colleagues made, but I do want to thank you for your leadership during this legislative session and before. You and I came in together 12 years ago in a class of three and so we had to sort of learn more by the seat of our pants than most did because there were so few of us. You have demonstrated extraordinary leadership in the 12 years that you have been in this body. You quickly accelerated into a leadership position and served us well and served the residents of this state well by demonstrating that leadership.

I have always said that what you do in your working life in the fire department has really been great here because it is always crisis management, it seems like. You are pretty unflappable. You keep us running on time, you keep this ship headed in the right direction all the time, and you are respectful to all of us. I think you rule with a firm hand, but your ideals, your love for this state, and your generosity in helping all of us maintain our personal lives, and your values for your family extend to all of us. Seeing you with Jackson up at the podium, as my colleague from Elko mentioned, is something that all of the members of this body with young children especially can really hold dear, because it will, I think, serve everyone in the future as well.

I thank you for the time that you have committed to this state, particularly in this very difficult legislative session. What you have extended to me and the opportunities you have given me will not be forgotten. Thank you for your leadership.

ASSEMBLYMAN STEWART:

Let's cut to the chase. Of the 22 of us who came back this session, the question on all our minds and on the minds of all these lobbyists up here was, "Can Johnny O. measure up to the previous Speaker? After two firm sessions with Speaker Buckley, who was a strong Speaker, could you measure up? Could you fill the seat?" That was our question. And let me tell you the answer to that—you filled it with dignity, with honor, with humor, and with respect. So the resounding answer is, "Johnny O. filled the seat of Barbara Buckley and did it with great, great, distinction."

ASSEMBLYWOMAN KIRKPATRICK:

I, too, want to tell you that since I have been here I have learned a great deal from you. You have taught me that I cannot always wear my passion on my sleeve, but I can make my voice heard. Just the time you have spent to tell me how to get things done and to give me the ability to get them done and have the confidence in me has been great.

My first session, I remember the first thing that we were told was freshmen were to be seen and not heard. I took that literally and I really never came off the 4th floor. But you did reach out to me my very first session and said, "What can I do to help you reach your goals?" My second session you called, and you asked where I wanted to go, what was my future for the legislature, what were my plans, and I told you. You were instrumental in making sure those things happened. I am not sure local government agrees that you did a good enough job, but I just think that you have allowed all of us in this building to excel. I believe you have a great future and you have two beautiful kids—one on the way—a great wife and a great family. I think that what you have brought to this building will stay with this building, and the freshmen are fortunate to have you as their Speaker.

ASSEMBLYMAN CONKLIN:

Thank you, Mr. Speaker. I have remarks for later, but I wanted to add a few personal ones, if I may. We have been working together fairly closely for some time now. I certainly appreciate all the mentorship and all of the teaching that you have shared with me.

I would rather, quite frankly, share a little bit of a personal story with the body, because sometimes in this building you really do not get to know each other well enough. We do not realize that we have lives outside this building, and we do other things and sometimes the measure of a person is not what they do in this building; it is what they do outside this building that transfers to their actions in here.

I guess the reason I say that is because last interim our offices were very close to each other, right down Losee Road a couple of blocks. I was coming back from a business meeting and there happened to be a fire chief's vehicle driving in front of me. I was about one block from my office and the fire chief's truck slammed on its brakes. Out jumped a man in a suit and ran around the car. I think he just remembered the day. Of course, naturally, I was driving too fast on the road and I almost hit the fire chief's truck, but that is beside the point. The gentleman ran around the car, and as I slowed down and pulled around, there had been a bicyclist who had been hit by a vehicle. There was lady who lay in the street with the bicycle. As I got a little bit further around and took a good close look, it was the Speaker who happened to be in a business suit. I am sure he was headed to a meeting because he is not normally on the fire truck. It didn't matter, that was his job—stop, apply first aid, call for help. I think it was at that moment when I realized what a treasure and a talent—and what type of person and human being you are and why you do the things that you have done as part of this body. Once again, I am honored.

Thank you.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 8:56 p.m.

ASSEMBLY IN SESSION

At 9:17 p.m.
Mr. Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 75, 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. 271, 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 Senate Bill No. 427, 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*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 6, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 240.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 282.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

GENERAL FILE AND THIRD READING

Senate Bill No. 75.

Bill read third time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 945.

AN ACT relating to public financial administration; establishing a program to provide private equity funding to businesses engaged in certain industries in this State; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, the State is prohibited from donating or loaning state money or credit, or subscribing to or being interested in the stock of any company, association or corporation, except a corporation that is formed for educational or charitable purposes. (Nev. Const. Art. 8, § 9) Existing law also requires the State Treasurer to negotiate for the investment of money in the State Permanent School Fund. However, the State Treasurer is prohibited from making certain investments unless he or she obtains a judicial determination that such an investment does not violate the provisions of Section 9 of Article 8 of the Nevada Constitution. (NRS 355.060)

Section 5.3 of this bill requires the State Treasurer to form an independent corporation for public benefit, the purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited-liability companies that provide private equity funding to businesses that engage in certain industries. Section 5.3 further enacts provisions governing the composition and duties and responsibilities of the board of directors of the corporation for public benefit. Sections 6 and 8 of this bill ~~[require]~~ **authorize** the State Treasurer ~~[, at the direction of the Commission on Economic Development,]~~ to invest an amount not to exceed $50 million of the money in the State Permanent School Fund to provide private equity funding to businesses engaged in certain industries that are located or seeking to locate in Nevada. **Section 7 of this bill prescribes the duties and powers of the State Treasurer with respect to the adoption of regulations and the implementation of the provisions of this bill.**

WHEREAS, NRS 355.060 authorizes the State Treasurer to invest money in the State Permanent School Fund in certain investments; and

WHEREAS, The State Treasurer seeks to invest money in the State Permanent School Fund in accordance with sound and prudent investment principles which include a primary emphasis on the preservation of assets followed by an emphasis on return; and

WHEREAS, A greater return on Permanent School Fund money invested by the State Treasurer will have a direct beneficial impact on Nevada schools and students; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would assist the State of Nevada in diversifying the economic base of the State; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information

technology and other industries critical to economic development in this State would attract new businesses and investment to the State of Nevada, resulting in high-paying, quality jobs; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would create greater exposure for institutions of the Nevada System of Higher Education through expanded projects designed around health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would encourage innovation and cooperation among institutions of the Nevada System of Higher Education and private sector businesses located in the State of Nevada; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology other industries critical to economic development in this State would increase the ability of institutions of the Nevada System of Higher Education, businesses in the State of Nevada and nonprofit corporations and organizations in the State of Nevada to compete more successfully for federal and private research and development funding; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences research and development would provide for advanced medical care being available to people living in and visiting the State of Nevada; and

WHEREAS, The State of Nevada, through the establishment of methods to provide private equity funding to businesses in this State, would provide economic growth and world-class medical care and training and would assist in the creation of high-paying, quality jobs for people living in the State of Nevada; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 355 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections [~~3.5 and~~] 3.7, 4 and 4.5 of this act have the meanings ascribed to them in those sections.***

Sec. 3. (Deleted by amendment.)

Sec. 3.5. ***[~~"Commission" means the Commission on Economic Development or its successor.~~]*** **(Deleted by amendment.)**

Sec. 3.7. ***"Corporation for public benefit" means a corporation that is recognized as exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, future amendments to that section and the corresponding provisions of future internal revenue laws.***

Sec. 4. ***"Private equity funding" means an investment in or a purchase of securities in operating businesses that are not publicly traded on a stock exchange.***

Sec. 4.5. ***"Venture capital" means equity, near-equity and seed capital financing, including, without limitation, early stage research and development capital for start-up enterprises, and other equity, near-equity or seed capital for growth and expansion of entrepreneurial enterprises.***

Sec. 5. (Deleted by amendment.)

Sec. 5.3. ***1. The State Treasurer shall cause to be formed in this State an independent corporation for public benefit, the general purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited-liability companies that provide private equity funding to businesses:***

(a) Located in this State or seeking to locate in this State; and

(b) Engaged primarily in one or more of the following industries:

(1) Health care and life sciences.

(2) Cyber security.

(3) Homeland security and defense.

(4) Alternative energy.

(5) Advanced materials and manufacturing.

(6) Information technology.

(7) Any other industry that the board of directors of the corporation for public benefit determines will likely meet the targets for investment returns established by the corporation for public benefit for investments authorized by sections 2 to 7, inclusive, of this act and comply with sound fiduciary principles.

2. The corporation for public benefit created pursuant to subsection 1 must have a board of directors consisting of:

(a) Five members from the private sector who have at least 10 years of experience in the field of investment, finance or banking and who are appointed for a term of 4 years as follows:

(1) One member appointed by the Governor;

(2) One member appointed by the Senate Majority Leader;

(3) One member appointed by the Speaker of the Assembly;

(4) One member appointed by the Senate Minority Leader; and

(5) One member appointed by the Assembly Minority Leader;

(b) The Chancellor of the Nevada System of Higher Education or his or her designee;

(c) The State Treasurer; and

(d) With the approval a majority of the members of the board of directors described in subparagraphs (1), (2) and (3), up to 5 additional members who are direct investors in the corporation for public benefit.

3. Vacancies in the appointed positions on the board of directors of the corporation for public benefit created pursuant to subsection 1 must be filled by the appointing authority for the unexpired term.

4. The State Treasurer shall serve as chair of the board of directors of the corporation for public benefit created pursuant to subsection 1.

5. The members of the board of directors of the corporation for public benefit must serve without compensation but are entitled to be reimbursed for actual and necessary expenses incurred in the performance of their duties, including, without limitation, travel expenses.

6. A member of the board of directors of the corporation for public benefit created pursuant to subsection 1 must not have an equity interest in any:

(a) External asset manager or venture capital or private equity investment firm contracting with the board pursuant to section 5.7 of this act; or

(b) Business which receives private equity funding pursuant to sections 2 to 7, inclusive, of this act.

7. The board of directors of the corporation for public benefit created pursuant to subsection 1 shall:

(a) Comply with the provisions of chapter 281A of NRS.

(b) Meet at least quarterly and conduct any meetings of the board of directors in accordance with chapter 241 of NRS.

(c) Review the performance of all external asset managers and venture capital and private equity investment firms contracting with the corporation for public benefit pursuant to section 5.7 of this act.

(d) On or before December 1 of each year, provide an annual report to the Governor and the Director of the Legislative Counsel Bureau for transmission to the next session of the Legislature, if the report is submitted in an even-numbered year or to the Legislative Commission, if the report is submitted in an odd-numbered year. The report must include, without limitation:

(1) An accounting of all money received and expended by the corporation for public benefit, including, without limitation, any matching grant funds, gifts or donations; and

(2) The name and a brief description of all businesses receiving an investment of money pursuant to the provisions of sections 2 to 7, inclusive, of this act.

Sec. 5.7. 1. The corporation for public benefit may place investments through the use or assistance of:

(a) External asset managers; or

(b) Private equity investment firms.

2. Money received pursuant to section 6 of this act by the corporation for public benefit may be used to make venture capital investments.

Sec. 6. ~~*[1. At the direction of the Commission,]*~~ ***If*** ***the State Treasurer*** ~~*[shall invest]*~~ ***obtains the judicial determination required by subsection 3 of NRS 355.060, the State Treasurer may transfer an amount not to exceed $50 million from the State Permanent School Fund*** ~~*[in]*~~ ***to the corporation for public benefit. Such a transfer must be made pursuant to an agreement that requires the corporation for public benefit to:***

1. Provide, through the limited partnerships or limited-liability companies ~~*[that provide]*~~ ***described in subsection 1 of section 5.3 of this act, private equity funding ; and***

2. Ensure that at least 70 percent of all private equity funding provided by the corporation for public benefit is provided to businesses:

(a) Located in this State or seeking to locate in this State; and

(b) Engaged primarily in one or more of the following industries:

(1) Health care and life sciences.

(2) Cyber security.

(3) Homeland security and defense.

(4) Alternative energy.

(5) Advanced materials and manufacturing.

(6) Information technology.

(7) Any other industry that the ~~*[Commission determines to be critical to the economic development of this State.*~~

~~*2. The Commission shall ensure that at least 70 percent of all money invested pursuant to subsection 1 is provided to businesses:*~~

~~*(a) Located in this State or seeking to locate in this State; and*~~

~~*(b) Engaged primarily in one or more of the following industries:*~~

~~*(1) Health care and life sciences.*~~

~~*(2) Cyber security.*~~

~~*(3) Homeland security and defense.*~~

~~*(4) Alternative energy.*~~

~~*(5) Advanced materials and manufacturing.*~~

~~*(6) Information technology.*~~

~~*(7) Any other industry that the Commission determines to be critical to the economic development of this State.*~~

~~*3. Investments made pursuant to this section may be placed through the use or assistance of:*~~

~~*(a) External asset managers; or*~~

~~*(b) Private equity investment firms.*~~

~~*4. Money invested pursuant to this section may not be used to make venture capital investments.*~~

~~*5. As used in this section, "venture capital" means equity, near equity and seed capital financing, including, without limitation, early stage research and development capital for start-up enterprises, and other equity, near equity or seed capital for growth and expansion of entrepreneurial enterprises.]*~~ ***board of directors of the corporation for public benefit determines will likely meet the targets for investment returns established by the corporation for public benefit for investments authorized by sections 2 to 7, inclusive, of this act and comply with sound fiduciary principles.***

Sec. 7. ***The State Treasurer*** ~~*[shall:]*~~ ***:***

1. ~~*[Adopt]*~~ ***May adopt*** ***such regulations as he or she deems necessary to carry out the provisions of sections 2 to 7, inclusive, of this act . [,*** ~~*including, without limitation, the]*~~

2. Shall adopt regulations:

(a) Requiring the performance of ~~*[such]*~~ ***audits and the submission of*** ~~*[such]*~~ ***reports*** ~~*[as he or she deems appropriate]*~~ ***to ensure compliance with the provisions of sections 2 to 7, inclusive, of this act and the regulations adopted pursuant to this section*** ~~*[. The regulations may]*~~ ***;***

(b) Providing for appropriate leveraging of investments to ensure that investments consist of money transferred from the State Permanent School Fund pursuant to section 6 of this act and money from private sources;

(c) Establishing a range or cap on servicing fees;

(d) Establishing limits on the amount or percentage of investment in a single venture capital project or by a fund manager; and

(e) Requiring the return of the corpus of investments after a defined investment period.

3. May adopt regulations which include , without limitation, criteria for determining eligibility for and use of private equity funding, but the Commission must have sole authority for the approval of applications for and the management of private equity funding provided pursuant to sections 2 to 7, inclusive, of this act.

~~*[2. Provide]*~~

4. May, by regulation, establish a Business Leadership Council. The members of the Business Leadership Council must serve without compensation and are subject to the provisions of chapter 281A of NRS.

5. Shall provide the ~~[Commission]~~ corporation for public benefit with such assistance as is necessary to carry out the provisions of sections 2 to 7, inclusive, of this act and comply with the regulations adopted pursuant to this section.

6. Shall ensure that businesses receiving venture capital investments pursuant to sections 2 to 7, inclusive, of this act have a presence in this State as evidenced by:

(a) Being domiciled in this State;

(b) Having a headquarters in this State;

(c) Having a significant percentage of employees residing in this State; or

(d) Being in the process of expanding in this State or relocating to this State.

Sec. 8. NRS 355.060 is hereby amended to read as follows:

355.060 1. The State Controller shall notify the State Treasurer monthly of the amount of uninvested money in the State Permanent School Fund.

2. Whenever there is a sufficient amount of money for investment in the State Permanent School Fund, the State Treasurer shall proceed to negotiate for the investment of the money in:

(a) United States bonds.

(b) Obligations or certificates of the Federal National Mortgage Association, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal Farm Credit Banks Funding Corporation or the Student Loan Marketing Association, whether or not guaranteed by the United States.

(c) Bonds of this state or of other states.

(d) Bonds of any county of the State of Nevada.

(e) United States treasury notes.

(f) Farm mortgage loans fully insured and guaranteed by the ~~[Farmers Home Administration]~~ ***Farm Service Agency*** of the United States Department of Agriculture.

(g) Loans at a rate of interest of not less than 6 percent per annum, secured by mortgage on agricultural lands in this state of not less than three times the value of the amount loaned, exclusive of perishable improvements, of unexceptional title and free from all encumbrances.

(h) Money market mutual funds that:

(1) Are registered with the Securities and Exchange Commission;

(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and

(3) Invest only in securities issued or guaranteed as to payment of principal and interest by the Federal Government, or its agencies or instrumentalities, or in repurchase agreements that are fully collateralized by such securities.

(i) Common or preferred stock of a corporation created by or existing under the laws of the United States or of a state, district or territory of the United States, if:

(1) The stock of the corporation is:

(I) Listed on a national stock exchange; or

(II) Traded in the over-the-counter market, if the price quotations for the over-the-counter stock are quoted by the National Association of Securities Dealers Automated Quotations System (NASDAQ);

(2) The outstanding shares of the corporation have a total market value of not less than $50,000,000;

(3) The maximum investment in stock is not greater than 50 percent of the book value of the total investments of the State Permanent School Fund;

(4) Except for investments made pursuant to paragraph (k), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the State Permanent School Fund; and

(5) Except for investments made pursuant to paragraph (k), the total amount of shares owned by the State Permanent School Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(j) A pooled or commingled real estate fund or a real estate security that is managed by a corporate trustee or by an investment advisory firm that is registered with the Securities and Exchange Commission, either of which may be retained by the State Treasurer as an investment manager. The shares and the pooled or commingled fund must be held in trust. The total book value of an investment made under this paragraph must not at any time be greater than 5 percent of the total book value of all investments of the State Permanent School Fund.

(k) Mutual funds or common trust funds that consist of any combination of the investments listed in paragraphs (a) to (j), inclusive.

(l) The limited partnerships or limited-liability companies described in section 6 of this act.

3. The State Treasurer shall not invest any money in the State Permanent School Fund pursuant to paragraph (i), (j) or (k) of subsection 2 unless the State Treasurer obtains a judicial determination that the proposed investment or category of investments will not violate the provisions of Section 9 of Article 8 of the Constitution of the State of Nevada. The State Treasurer shall contract for the services of independent contractors to manage any

investments of the State Treasurer made pursuant to paragraph (i), (j) or (k) of subsection 2. The State Treasurer shall establish such criteria for the qualifications of such an independent contractor as are appropriate to ensure that each independent contractor has expertise in the management of such investments.

4. In addition to the investments authorized by subsection 2, the State Treasurer may make loans of money from the State Permanent School Fund to school districts pursuant to NRS 387.526.

5. No part of the State Permanent School Fund may be invested pursuant to a reverse-repurchase agreement.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 271.

Bill read third time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 943.

AN ACT relating to land use planning; providing for the withdrawal of the State of Nevada from the Tahoe Regional Planning Compact under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the Tahoe Regional Planning Compact, an interstate agreement between the States of California and Nevada pursuant to which the bistate Tahoe Regional Planning Agency regulates environmental and land-use matters within the Lake Tahoe Basin. (NRS 277.190-277.220) Existing law also provides that if either State withdraws from the Compact, the Nevada Tahoe Regional Planning Agency shall assume the duties and powers of regulating environmental and land-use matters on this State's side of the Lake Tahoe Basin. (NRS 278.826)

This bill provides for the withdrawal of Nevada from the Tahoe Regional Planning Compact unless the governing body of the Tahoe Regional Planning Agency adopts an updated Regional Plan and certain proposed amendments to the Compact are approved pursuant to Public Law 96-551. The proposed amendments to the Compact are: (1) the removal of the supermajority requirement for the governing body of the Agency to establish a quorum; (2) the removal of the supermajority requirement for voting by the governing body; (3) a requirement that the governing body of the Agency consider the changing economic conditions of the Lake Tahoe Basin and amend the Regional Plan, accordingly; and (4) the addition of a provision to

the Compact which sets forth that any person who legally challenges the Regional Plan has the burden of proving the Regional Plan does not comply with the provisions of the Compact. If the Agency does not adopt an updated Regional Plan and the proposed amendments are not approved by October 1, ~~[~~2014,~~]~~ **2015,** Nevada's withdrawal from the Compact will become effective on that date unless the Governor issues a proclamation extending the deadline for withdrawal until October 1, 2017.

This bill also requires the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System to prepare a report detailing certain issues related to ~~[Nevada withdrawing from]~~ **Nevada's participation in** the Compact. **This bill further directs the Legislative Committee to appoint a delegation to work with a like delegation from the California Legislature to discuss possible changes to the Compact. Additionally, this bill authorizes the Legislative Committee to submit to the 77th Session of the Nevada Legislature (2013) a bill draft request which would have the effect of preventing Nevada's withdrawal from the Compact, if the Legislative Committee determines that Nevada should remain a party to the Compact.**

This bill provides that if Nevada withdraws from the Compact, the Nevada Tahoe Regional Planning Agency will assume the duties and powers currently held by the bistate Agency for the portion of the Lake Tahoe Basin within this State. This bill also establishes temporary measures to ensure that the Nevada Tahoe Regional Planning Agency is able to assume those duties and powers in an orderly manner.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The State of Nevada hereby withdraws from the Tahoe Regional Planning Compact pursuant to the provisions of subdivision (c) of Article X of the Tahoe Regional Planning Compact.

Sec. 1.5. NRS 277.200 is hereby amended to read as follows:

277.200 The Tahoe Regional Planning Compact is as follows:

Tahoe Regional Planning Compact

ARTICLE I. Findings and Declarations of Policy

(a) It is found and declared that:

(1) The waters of Lake Tahoe and other resources of the region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.

(2) The public and private interests and investments in the region are substantial.

(3) The region exhibits unique environmental and ecological values which are irreplaceable.

(4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.

(5) Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.

(6) Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by the Lake Tahoe Basin.

(7) There is a public interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.

(8) Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the states of California and Nevada, and the Federal Government.

(9) In recognition of the public investment and multistate and national significance of the recreational values, the Federal Government has an interest in the acquisition of recreational property and the management of resources in the region to preserve environmental and recreational values, and the Federal Government should assist the states in fulfilling their responsibilities.

(10) In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to insure an equilibrium between the region's natural endowment and its man-made environment.

(b) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

(c) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provisions of this compact.

ARTICLE II. Definitions

As used in this compact:

(a) "Region," includes Lake Tahoe, the adjacent parts of Douglas and Washoe counties and Carson City, which for the purposes of this compact shall be deemed a county, lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

(b) "Agency" means the Tahoe Regional Planning Agency.

(c) "Governing body" means the governing board of the Tahoe Regional Planning Agency.

(d) "Regional plan" means the long-term general plan for the development of the region.

(e) "Planning commission" means the advisory planning commission appointed pursuant to subdivision (h) of Article III.

(f) "Gaming" means to deal, operate, carry on, conduct, maintain or expose for play any banking or percentage game played with cards, dice or any mechanical device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fantan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, stud poker, draw poker or slot machine, but does not include social games played solely for drinks, or cigars or cigarettes served individually, games played in private homes or residences for prizes or games operated by charitable or educational organizations, to the extent excluded by applicable state law.

(g) "Restricted gaming license" means a license to operate not more than 15 slot machines on which a quarterly fee is charged pursuant to NRS 463.373 and no other games.

(h) "Project" means an activity undertaken by any person, including any public agency, if the activity may substantially affect the land, water, air, space or any other natural resources of the region.

(i) "Environmental threshold carrying capacity" means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and

safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.

(j) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(k) "Areas open to public use" means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.

(l) "Areas devoted to private use of guests" means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas on each side of the hallway are hotel rooms.

(m) "Nonrestricted license" means a gaming license which is not a restricted gaming license.

ARTICLE III. Organization

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

(1) California delegation:

(A) One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the Speaker of the Assembly of California and one member appointed by the Senate Rules Committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the board of supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) One member appointed by the governor of Nevada, the secretary of state of Nevada or his designee, and the director of the state department of

conservation and natural resources of Nevada or his designee. Except for the secretary of state and the director of the state department of conservation and natural resources, the members or designees appointed pursuant to this subparagraph shall not be residents of the region. All members appointed pursuant to this subparagraph shall represent the public at large within the State of Nevada.

(C) One member appointed for a 1-year term by the six other members of the Nevada delegation. If at least four members of the Nevada delegation are unable to agree upon the selection of a seventh member within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body for that state the governor of the State of Nevada shall make such an appointment. The member appointed pursuant to this subparagraph may, but is not required to, be a resident of the region within the State of Nevada.

(3) If any appointing authority under paragraph (1)(A), (1)(B), (2)(A) or (2)(B) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the governor of the state in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be 1 year.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this paragraph, "economic interests" means:

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than $1,000;

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than $1,000;

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating $250 or more in value received by or promised to the member within the preceding 12 months; or

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, employee or holds any position of management.

➥ No member or employee of the agency shall make, or attempt to influence, an agency decision in which he knows or has reason to know he has an economic interest. Members and employees of the agency must

disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) Except for the secretary of state and director of the state department of conservation and natural resources of Nevada and the member appointed pursuant to subdivision (a)(2)(C), the members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years. Members may be reappointed.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date and place and posting an agenda at least 5 days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

(g) Four ~~*[Eight]*~~ of the members of the governing body from each state constitute a quorum for the transaction of the business of the agency . The voting procedures shall be as follows: ~~*[, and the affirmative vote of eight members of the governing body is sufficient for any of the following purposes:]*~~

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations , ~~[the vote of]~~ at least ~~[four of the]~~ ***nine*** members of ~~[each state agreeing with the vote of at least four members of the other state shall be required]~~ ***the governing body must agree*** to take action. If ~~[there is no vote of at least four of the members from one state agreeing with the vote of at least four of the members of the other state on the actions specified in this paragraph,]~~ ***at least nine votes in favor of such action are not cast,*** an action of rejection shall be deemed to have been taken.

(2) For approving a project ~~[,]~~ , the affirmative vote of at least ~~[five]~~ ***four*** members from the state in which the project is located and the affirmative vote of at least nine members of the ***entire*** governing body are required. If at least ~~[five]~~ ***four*** members of the governing body from the state in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions ~~[,]~~ , at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

➥ Whenever under the provisions of this compact or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the agency shall take final action by vote, whether to approve, to require modification or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision (h) of Article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and of Douglas County, Washoe County and Carson City in Nevada, the executive

officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the Air Resources Board of the State of California, the director of the state department of conservation and natural resources of the State of Nevada, the administrator of the division of environmental protection in the state department of conservation and natural resources of the State of Nevada, the administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each state, at least half of whom shall be residents of the region. Any official member may designate an alternate.

The term of office of each lay member of the advisory planning commission shall be 2 years. Members may be reappointed.

The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointment, and in such an event the appointing authority shall appoint a successor.

The advisory planning commission shall elect from its own members a chairman and a vice chairman, whose terms of office shall be 2 years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be open to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken.

ARTICLE IV. Personnel

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

ARTICLE V. Planning

(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision.

If a request is made for the amendment of the regional plan by:

(1) A political subdivision a part of whose territory would be affected by such amendment; or

(2) The owner or lessee of real property which would be affected by such amendment,

➥ the governing body shall complete its action on such amendment within 180 days after such request is accepted as complete according to standards which must be prescribed by ordinance of the agency.

(b) The agency shall develop, in cooperation with the states of California and Nevada, environmental threshold carrying capacities for the region. The

agency should request the President's Council on Environmental Quality, the United States Forest Service and other appropriate agencies to assist in developing such environmental threshold carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

(c) Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body shall continuously review and maintain the regional plan ~~[.]~~ ***and, in so doing, shall ensure that the regional plan reflects changing economic conditions and the economic effect of regulation on commerce.*** The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall be a single enforceable plan and includes all of the following correlated elements:

(1) A land-use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to an indication or allocation of maximum population densities and permitted uses.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(A) To reduce dependency on the automobile by making more effective use of existing transportation modes and of public transit to move people and goods within the region; and

(B) To reduce to the extent feasible air pollution which is caused by motor vehicles.

➥ Where increases in capacity are required, the agency shall give preference to providing such capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider

all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to:

(A) Completion of the Loop Road in the states of Nevada and California;

(B) Utilization of a light rail mass transit system in the South Shore area; and

(C) Utilization of a transit terminal in the Kingsbury Grade area.

➥ Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing and other recreational facilities.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining federal, state, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable state implementation plan or the applicable federal, state, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rule or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and shall insure that the project under review will not adversely affect implementation of the regional plan and will not cause the adopted environmental threshold carrying capacities of the region to be exceeded.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

ARTICLE VI. Agency's Powers

(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; floodplain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the regional plan.

The agency shall prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

(b) No project other than those to be reviewed and approved under the special provisions of subdivisions (d), (e), (f) and (g) may be developed in the region without obtaining the review and approval of the agency and no project may be approved unless it is found to comply with the regional plan and with the ordinances, rules and regulations enacted pursuant to subdivision (a) to effectuate that plan.

The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of Article V. Such findings shall be based on substantial evidence in the record.

Before adoption by the agency of the ordinances required in subdivision (g) of Article V, the agency may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations, and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the region.

(c) The legislatures of the states of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region which might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of Article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, prior to the effective date of the amendments to this compact.

(3) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third of that number may be issued by each such city or county. For purposes of this paragraph a "residential unit" means either a single family residence or an individual residential unit within a larger building, such as an apartment building, a duplex or a condominium.

The legislatures find the respective numbers of residential units authorized within the region during the calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)…….252
2. PlacerCounty.....278
3. CarsonCity ..... -0-

4. DouglasCounty 339
5. WashoeCounty.....739

(4) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third the amount of that square footage may be issued by each such city or county.

The legislatures find the respective square footages of commercial buildings authorized within the region during calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County(combined)… 64,324
2. Placer County ……..23,000
3. Carson City…….....-0-
4. Douglas County……..…….....57,354
5. Washoe County…….…….. 50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except:

(A) To comply, as ordered by the appropriate state agency for the control of water pollution, with existing limitations of effluent under the Clean Water Act, 33 U.S.C. §§ 1251 et seq., and the applicable state law for control of water pollution;

(B) To accommodate development which is not prohibited or limited by this subdivision; or

(C) In the case of Douglas County Sewer District # 1, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluent for which they were originally designed, which is 3.0 million gallons per day. Such modification or alteration is not a “project”; is not subject to the requirements of Article VII; and does not require a permit from the agency. Before commencing such modification or alteration, however, the district shall submit to the agency its report identifying any significant soil erosion problems which may be caused by such modifications or alterations and the measures which the district proposes to take to mitigate or avoid such problems.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by

this subdivision, no new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage which has been approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation which was pending on the effective date of the amendments to this compact, should or should not be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if a judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the states of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date.

➥ The area within any structure housing gaming under a nonrestricted license which may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by Article VI (d):

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure;

(B) Increase the total square footage of area open to or approved for public use on May 4, 1979;

(C) Convert an area devoted to the private use of guests to an area open to public use;

(D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

➥ The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraph (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use or repair of areas open to public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those areas which is actually used for gaming by more than the product of the total base area, as defined below, in square feet existing on or approved before August 4, 1980, multiplied by 15 percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of

this paragraph and the determination required by Article VI (g), base area means all of the area within a structure housing gaming under a nonrestricted license which may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.

(g) In order to administer and enforce the provisions of paragraphs (d), (e) and (f) the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

(1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:

(A) The location of its external walls;

(B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the structure; and

(E) The base area as defined in paragraph (f)(3) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accommodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions:

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency.

➥ Such legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person which is undertaken or to be undertaken upon a parcel of real property, in the state or federal judicial district where the real property is situated.

(B) If an action challenges an activity which does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any state or federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the State of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, "aggrieved person" means the Tahoe Regional Planning Agency or any state, federal or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, "aggrieved person" means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action which is being challenged, or who had good cause for not making such an appearance.

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5) In any legal action filed pursuant to this subdivision which challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision which challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall extend only to the questions of whether the act or

decision has been arbitrary, capricious or lacking substantial evidentiary support or whether the agency has failed to proceed in a manner required by law. ***In addition, there is a rebuttable presumption that a regional plan adopted, amended, formulated or maintained pursuant to this compact is in conformance with the requirements applicable to this compact, and a party challenging the regional plan has the burden of showing that it is not in conformance with the requirements applicable to this compact.***

(6) The provisions of this subdivision do not apply to any legal proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law which were applicable prior to the effective date of this subdivision.

(7) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule or regulation adopted pursuant thereto is governed by the rule or statute applicable to the court in which the action is brought, unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations and ordinances in which case no security shall be required.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to ensure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

(l) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed $5,000. Any such person is subject to an additional civil penalty not to exceed $5,000 per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

(m) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(o) Every record of the agency, whether public or not, shall be open for examination to the Legislature and Controller of the State of California and the legislative auditor of the State of Nevada.

(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is later, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. Environmental Impact Statements

(a) The Tahoe Regional Planning Agency when acting upon matters that have a significant effect on the environment shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment;

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following:

(A) The significant environmental impacts of the proposed project;

(B) Any significant adverse environmental effects which cannot be avoided should the project be implemented;

(C) Alternatives to the proposed project;

(D) Mitigation measures which must be implemented to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented; and

(G) The growth-inducing impact of the proposed project;

(3) Study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources;

(4) Make available to states, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the region's environment; and

(5) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing an environmental impact statement, the agency shall consult with and obtain the comments of any federal, state or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, state and local agencies which are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the project through the review processes. The public shall be consulted during the environmental impact statement process and views shall be solicited during a public comment period not to be less than 60 days.

(c) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data which is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act or a federal environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. However, such information or data shall be briefly described in the environmental impact statement and its relationship to the environmental impact statement shall be indicated.

In addition, any person may submit information relative to a proposed project which may be included, in whole or in part, in any environmental impact statement required by this article.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

(1) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or

(2) Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

➥ A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

(f) The agency shall adopt by ordinance a list of classes of projects which the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

ARTICLE VIII. Finances

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion $75,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay $18,750 to the agency and each county within the region in Nevada, including Carson City, shall pay $12,500 to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1 of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the states of California and Nevada. Requests for state funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

(c) The agency shall submit an itemized budget to the states for review with any request for state funds, shall be strictly accountable to any county in the region and the states for all funds paid by them to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in subdivision (i) of Article III.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the states for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

ARTICLE IX. Transportation District

(a) The Tahoe transportation district is hereby established as a special purpose district. The boundaries of the district are coterminous with those of the region.

(b) The business of the district shall be managed by a board of directors consisting of:

(1) One member of the county board of supervisors of each of the counties of El Dorado and Placer who must be appointed by his respective board of supervisors;

(2) One member of the city council of the City of South Lake Tahoe who must be appointed by the city council;

(3) One member each of the board of county commissioners of Douglas County and of Washoe County who must be appointed by his respective board of county commissioners;

(4) One member of the board of supervisors of Carson City who must be appointed by the board of supervisors;

(5) One member of the South Shore Transportation Management Association or its successor organization who must be appointed by the association or its successor organization;

(6) One member of the North Shore Transportation Management Association or its successor organization who must be appointed by the association or its successor organization;

(7) One member of each local transportation district in the region that is authorized by the State of Nevada or the State of California who must be appointed by his respective transportation district;

(8) One member appointed by a majority of the other voting directors who represents a public or private transportation system operating in the region;

(9) The director of the California Department of Transportation; and

(10) The director of the department of transportation of the State of Nevada.

➥ Any entity that appoints a member to the board of directors, the director of the California Department of Transportation or the director of the department of transportation of the State of Nevada may designate an alternate.

(c) Before a local transportation district appoints a member to the board of directors pursuant to paragraph (7) of subdivision (b), the local transportation district must enter into a written agreement with the Tahoe transportation

district that sets forth the responsibilities of the districts for the establishment of policies and the management of financial matters, including, but not limited to, the distribution of revenue among the districts.

(d) The directors of the California Department of Transportation and the department of transportation of the State of Nevada, or their designated alternates, serve as nonvoting directors, but shall provide technical and professional advice to the district as necessary and appropriate.

(e) The vote of a majority of the directors must agree to take action. If a majority of votes in favor of an action are not cast, an action of rejection shall be deemed to have been taken.

(f) The Tahoe transportation district may by resolution establish procedures for the adoption of its budgets, the appropriation of its money and the carrying on of its other financial activities. These procedures must conform insofar as is practicable to the procedures for financial administration of the State of California or the State of Nevada or one or more of the local governments in the region.

(g) The Tahoe transportation district may in accordance with the adopted transportation plan:

(1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.

(2) Own and operate support facilities for public and private systems of transportation, including, but not limited to, parking lots, terminals, facilities for maintenance, devices for the collection of revenue and other related equipment.

(3) Acquire or agree to operate upon mutually agreeable terms any publicly or privately owned transportation system or facility within the region.

(4) Hire the employees of existing public transportation systems that are acquired by the district without loss of benefits to the employees, bargain collectively with employee organizations, and extend pension and other collateral benefits to employees.

(5) Contract with private companies to provide supplementary transportation or provide any of the services needed in operating a system of transportation for the region.

(6) Contract with local governments in the region to operate transportation facilities or provide any of the services necessary to operate a system of transportation for the region.

(7) Fix the rates and charges for transportation services provided pursuant to this subdivision.

(8) Issue revenue bonds and other evidence of indebtedness and make other financial arrangements appropriate for developing and operating a public transportation system.

(9) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The tax proposed must be general and of uniform operation throughout the region, and may not be graduated in any way, except for a sales and use tax. If a sales and use tax is approved by the voters as provided in this paragraph, it may be administered by the states of California and Nevada respectively in accordance with the laws that apply within their respective jurisdictions and must not exceed a rate of 1 percent of the gross receipts from the sale of tangible personal property sold in the district. The district is prohibited from imposing any other tax measured by gross or net receipts on business, an ad valorem tax, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming tables and devices. Any such proposition must be submitted to the voters of the district and shall become effective upon approval of the voters voting on the proposition who reside in the State of California in accordance with the laws that apply within that state and approval of the voters voting on the proposition who reside in the State of Nevada in accordance with the laws that apply within that state. The revenues from any such tax must be used for the service for which it was imposed, and for no other purpose.

(10) Provide service from inside the region to convenient airport, railroad and interstate bus terminals without regard to the boundaries of the region.

(h) The legislatures of the states of California and Nevada may, by substantively identical enactments, amend this article.

ARTICLE X. Miscellaneous

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated

officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, distribution or storage of interstate waters or upon any appropriative water right.

Sec. 2. NRS 277.207 is hereby amended to read as follows:

277.207 All judicial actions and proceedings in which there may arise a question of the validity of any matter under the provisions of ***former*** NRS 277.190 to 277.220, inclusive, ~~[shall]~~ ***must*** be advanced as a matter of immediate public interest and concern, and be heard at the earliest practicable moment.

Sec. 3. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

The Account for the Nevada Tahoe Regional Planning Agency is hereby established in the State General Fund and consists of any money provided by direct legislative appropriation. Money in the Account must be expended for the support of, or paid over directly to, the Agency in whatever amount and manner is directed by each appropriation or provided by law.

Sec. 4. NRS 278.024 is hereby amended to read as follows:

278.024 1. In the region of this State for which there has been created by NRS 278.780 to 278.828, inclusive, ***and section 3 of this act*** a regional planning agency, the powers conferred by NRS 278.010 to 278.630, inclusive, upon any other authority are subordinate to the powers of such regional planning agency, and may be exercised only to the extent that their exercise does not conflict with any ordinance or plan adopted by such regional planning agency. The powers conferred by NRS 278.010 to 278.630, inclusive, shall be exercised whenever appropriate in furtherance of a plan adopted by the regional planning agency.

2. Upon the adoption by a regional planning agency created by NRS 278.780 to 278.828, inclusive, ***and section 3 of this act*** of any regional plan, any plan adopted pursuant to NRS 278.010 to 278.630, inclusive, shall cease to be effective as to the territory embraced in such regional plan. Each planning commission and governing body whose previously adopted plan is so affected shall, within 90 days after the effective date of the regional plan, initiate any necessary procedure to revise its plan and any related zoning ordinances which affect adjacent territory.

Sec. 5. NRS 278.782 is hereby amended to read as follows:

278.782 As used in NRS 278.780 to 278.828, inclusive, ***and section 3 of this act,*** unless the context otherwise requires, the words and terms defined in

NRS 278.784 to 278.791, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 278.792 is hereby amended to read as follows:

278.792 1. The Nevada Tahoe Regional Planning Agency is hereby created as a separate legal entity.

2. The governing body of the Agency consists of ~~[:]~~ ***seven members as follows:***

(a) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the Board of Supervisors of Carson City. Any such member may be a member of the board of county commissioners or Board of Supervisors, respectively, and must reside in the territorial jurisdiction of the governmental body making the appointment.

(b) ~~[One member appointed by the]~~ ***The*** Governor of Nevada ~~[, the Secretary of State of Nevada]~~ or a designee of the ~~[Secretary of State, and the Director]~~ ***Governor.***

(c) The Secretary of State or a designee of the Secretary of State.

(d) The State Forester Firewarden or a designee of the State Forester Firewarden.

(e) The Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources ~~[of Nevada]~~ or a designee of the ~~[Director.]~~ ***Administrator.***

➥ A member who is ~~[appointed or]~~ designated pursuant to ~~[this paragraph must not be a resident of the region and]~~ ***paragraphs (b) to (e), inclusive,*** shall represent the public at large within the State of Nevada.

~~[(c) One member appointed for a 1-year term by the six other members. If at least four members are unable to agree upon the selection of a seventh member within 30 days after this section becomes effective or the occurrence of a vacancy, the Governor shall make the appointment. The member appointed pursuant to this paragraph may but is not required to be a resident of the region.]~~

3. If any appointing authority fails to make an appointment within 30 days after the effective date of this section or the occurrence of a vacancy on the governing body, the Governor shall make the appointment.

4. The position of any member of the governing body shall be deemed vacant if the member is absent from three consecutive meetings of the governing body in any calendar year.

5. Each member and employee of the Agency shall disclose his or her economic interests in the region within 10 days after taking the seat on the governing body or being employed by the Agency and shall thereafter disclose any further economic interest which he or she acquires, as soon as feasible after acquiring it. As used in this section, “economic interest” means:

(a) Any business entity operating in the region in which the member has a direct or indirect investment worth more than $1,000;

(b) Any real property located in the region in which the member has a direct or indirect interest worth more than $1,000;

(c) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating $250 or more in value received by or promised to the member within the preceding 12 months; or

(d) Any business entity operating in the region in which the member is a director, officer, partner, trustee, employee or holds any position of management.

➥ No member or employee of the Agency may make or attempt to influence an Agency decision in which the member or employee knows or has reason to know he or she has a financial interest. Members and employees of the Agency must disqualify themselves from making or participating in the making of any decision of the Agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interest of the member or employee.

Sec. 7. NRS 278.794 is hereby amended to read as follows:

278.794 The terms of office of the members of the governing body ~~[, other than the member appointed by the other members,]~~ ***:***

1. For members who are elected state officers, coincide with the member's elected term of office.

2. For members who are appointed or designated, are at the pleasure of the appointing ***or designating*** authority in each case, but each appointment ***and designation*** must be reviewed no less often than every 4 years.

Sec. 8. NRS 218E.550 is hereby amended to read as follows:

218E.550 As used in NRS 218E.550 to 218E.580, inclusive, unless the context otherwise requires, "Committee" means the Legislative Committee for the Review and Oversight of the ***Nevada*** Tahoe Regional Planning Agency and the Marlette Lake Water System created by NRS 218E.555.

Sec. 9. NRS 218E.555 is hereby amended to read as follows:

218E.555 1. There is hereby created the Legislative Committee for the Review and Oversight of the ***Nevada*** Tahoe Regional Planning Agency and the Marlette Lake Water System consisting of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission with appropriate regard for their experience with and knowledge of matters relating to the management of natural resources. The members must be appointed to provide representation from the various geographical regions of the State.

2. The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.

3. The members of the Committee shall elect a Chair from one House of the Legislature and a Vice Chair from the other House. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year.

4. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session of the Legislature convenes.

5. Vacancies on the Committee must be filled in the same manner as original appointments.

6. The Committee shall report annually to the Legislative Commission concerning its activities and any recommendations.

Sec. 10. NRS 218E.565 is hereby amended to read as follows:

218E.565 The Committee shall:

1. Provide appropriate review and oversight of the ***Nevada*** Tahoe Regional Planning Agency and the Marlette Lake Water System;

2. Review the budget, programs, activities, responsiveness and accountability of the ***Nevada*** Tahoe Regional Planning Agency and the Marlette Lake Water System in such a manner as deemed necessary and appropriate by the Committee; ***and***

3. Study the role, authority and activities of:

(a) The ***Nevada*** Tahoe Regional Planning Agency regarding the Lake Tahoe Basin; and

(b) The Marlette Lake Water System regarding Marlette Lake**.** ~~[~~**[**~~; and~~

~~4. Continue to communicate with members of the Legislature of the State of California to achieve the goals set forth in the Tahoe Regional Planning Compact.~~**]**

Sec. 11. NRS 321.5952 is hereby amended to read as follows:

321.5952 The Legislature hereby finds and declares that:

1. The Lake Tahoe Basin exhibits unique environmental and ecological conditions that are irreplaceable.

2. Certain of the unique environmental and ecological conditions exhibited within the Lake Tahoe Basin, such as the clarity of the water in Lake Tahoe, are diminishing at an alarming rate.

3. This State has a compelling interest in preserving, protecting, restoring and enhancing the natural environment of the Lake Tahoe Basin.

4. The preservation, protection, restoration and enhancement of the natural environment of the Lake Tahoe Basin is a matter of such significance that it must be carried out on a continual basis.

5. It is in the best interest of this State to grant to the Division continuing authority to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin.

6. The powers and duties set forth in NRS 321.5952 to 321.5957, inclusive, are intended to be exercised by the Division in a manner that complements and does not duplicate the activities of the ***Nevada*** Tahoe Regional Planning Agency.

Sec. 12. NRS 445B.830 is hereby amended to read as follows:

445B.830 1. In areas of the State where and when a program is commenced pursuant to NRS 445B.770 to 445B.815, inclusive, the following fees must be paid to the Department of Motor Vehicles and accounted for in the Pollution Control Account, which is hereby created in the State General Fund:

(a) For the issuance and annual renewal of a license for an authorized inspection station, authorized maintenance station, authorized station or fleet station.....$25

(b) For each set of 25 forms certifying emission control compliance.....150

(c) For each form issued to a fleet station.....6

2. Except as otherwise provided in subsections 6, 7 and 8, and after deduction of the amounts distributed pursuant to subsection 4, money in the Pollution Control Account may, pursuant to legislative appropriation or with the approval of the Interim Finance Committee, be expended by the following agencies in the following order of priority:

(a) The Department of Motor Vehicles to carry out the provisions of NRS 445B.770 to 445B.845, inclusive.

(b) The State Department of Conservation and Natural Resources to carry out the provisions of this chapter.

(c) The State Department of Agriculture to carry out the provisions of NRS 590.010 to 590.150, inclusive.

(d) Local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air.

(e) The ***Nevada*** Tahoe Regional Planning Agency to carry out the provisions of NRS ~~[277.200]~~ ***278.780 to 278.828, inclusive, and section 3 of this act*** with respect to the preservation and improvement of air quality in the Lake Tahoe Basin.

3. The Department of Motor Vehicles may prescribe by regulation routine fees for inspection at the prevailing shop labor rate, including, without limitation, maximum charges for those fees, and for the posting of those fees in a conspicuous place at an authorized inspection station or authorized station.

4. The Department of Motor Vehicles shall make quarterly distributions of money in the Pollution Control Account to local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408. The distributions of money made to agencies in a county pursuant to this subsection must be made from an amount of money in the Pollution Control Account that is equal to one-sixth of the amount received for each form issued in the county pursuant to subsection 1.

5. Each local governmental agency that receives money pursuant to subsection 4 shall, not later than 45 days after the end of the fiscal year in which the money is received, submit to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee a report on the use of the money received.

6. The Department of Motor Vehicles shall by regulation establish a program to award grants of money in the Pollution Control Account to local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air. The grants to agencies in a county pursuant to this subsection must be made from any excess money in the Pollution Control Account. As used in this subsection, "excess money" means the money in excess of $1,000,000 remaining in the Pollution Control Account at the end of the fiscal year, after deduction of the amounts distributed pursuant to subsection 4 and any disbursements made from the Account pursuant to subsection 2.

7. Any regulations adopted pursuant to subsection 6 must provide for the creation of an advisory committee consisting of representatives of state and local agencies involved in the control of emissions from motor vehicles. The committee shall:

(a) Review applications for grants and make recommendations for their approval, rejection or modification;

(b) Establish goals and objectives for the program for control of emissions from motor vehicles;

(c) Identify areas where funding should be made available; and

(d) Review and make recommendations concerning regulations adopted pursuant to subsection 6 or NRS 445B.770.

8. Grants proposed pursuant to subsections 6 and 7 must be submitted to the appropriate deputy director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources. Proposed grants approved by the appropriate deputy director and the Administrator must not be awarded until approved by the Interim Finance Committee.

Sec. 13. NRS 528.150 is hereby amended to read as follows:

528.150 1. On or before January 1 of each year, the State Forester Firewarden shall, in coordination and cooperation with the ***Nevada*** Tahoe Regional Planning Agency and the fire chiefs within the Lake Tahoe Basin, submit a report concerning fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin to:

(a) The Legislative Committee for the Review and Oversight of the ***Nevada*** Tahoe Regional Planning Agency and Marlette Lake Water System created by NRS 218E.555 and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature;

(b) The Governor;

(c) The ***Nevada*** Tahoe Regional Planning Agency; and

(d) Each United States Senator and Representative in Congress who is elected to represent the State of Nevada.

2. The report submitted by the State Forester Firewarden pursuant to subsection 1 must address, without limitation:

(a) The status of:

(1) The implementation of plans for the prevention of fires in the Nevada portion of the Lake Tahoe Basin, including, without limitation, plans relating to the reduction of fuel for fires;

(2) Efforts concerning forest restoration in the Nevada portion of the Lake Tahoe Basin; and

(3) Efforts concerning rehabilitation of vegetation, if any, as a result of fire in the Nevada portion of the Lake Tahoe Basin.

(b) Compliance with:

(1) The goals and policies for fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin; and

(2) Any recommendations concerning fire prevention or public safety made by any fire department or fire protection district in the Nevada portion of the Lake Tahoe Basin.

(c) Any efforts to:

(1) Increase public awareness in the Nevada portion of the Lake Tahoe Basin regarding fire prevention and public safety; and

(2) Coordinate with other federal, state, local and private entities with regard to projects to reduce fire hazards in the Nevada portion of the Lake Tahoe Basin.

Sec. 14. NRS 540A.030 is hereby amended to read as follows:

540A.030 1. In each county to which this chapter applies, except as otherwise provided in subsections 2 and 3, the region within which water is to be managed, and with respect to which plans for its use are to be made, pursuant to this chapter is the entire county except:

(a) Any land within the region defined by NRS ~~[277.200, the Tahoe Regional Planning Compact;]~~ ***278.790;*** and

(b) Lands located within any Indian reservation or Indian colony which are held in trust by the United States.

2. The board may exclude from the region any land which it determines is unsuitable for inclusion because of its remoteness from the sources of supply managed pursuant to this chapter or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the region.

3. The board may include within the region an area otherwise excluded if it finds that the land requires alleviation of the effect of flooding or drainage of storm waters or another benefit from planning or management performed in the region.

Sec. 15. Section 1 of The Lake Tahoe Basin Act of 1993, being chapter 355, Statutes of Nevada 1993, at page 1152, is hereby amended to read as follows:

Section 1. Program to mitigate environmentally detrimental effects of land coverage: Establishment; authority of state land registrar.

1. The Division of State Lands of the State Department of Conservation and Natural Resources shall, within the limits of available money, establish a program to mitigate the environmentally detrimental effects of land coverage in the Lake Tahoe Basin.

2. In carrying out the program the Division may, as the State Land Registrar deems appropriate regarding particular parcels of land:

(a) Acquire by donation, purchase or exchange real property or any interest in real property in the Lake Tahoe Basin.

(b) Transfer by sale, lease or exchange real property or any interest in real property in the Lake Tahoe Basin.

(c) Eliminate land coverage on real property acquired pursuant to paragraph (a).

(d) Eliminate, or mitigate the effects of, features or conditions of real property acquired pursuant to paragraph (a) which are detrimental to the environment of the Lake Tahoe Basin.

(e) Retire or otherwise terminate rights to place land coverage on real property in the Lake Tahoe Basin.

3. Any acquisition of real property or any interest in real property made pursuant to this section must first be approved by the State Board of Examiners. The price of the acquisition must be based on the fair market value of the property or interest as determined by a qualified appraiser.

4. The State Land Registrar may transfer real property or any interest in real property acquired pursuant to this section:

(a) To state and federal agencies, local governments and nonprofit organizations for such consideration as the State Land Registrar deems to be reasonable and in the interest of the general public.

(b) To other persons for a price that is not less than the fair market value of the real property or interest as determined by a qualified appraiser.

5. ~~[Before any real property or an interest in real property is transferred pursuant to this section, a declaration of restrictions or deed restrictions must be recorded as required by the Tahoe Regional Planning Agency to ensure that rights to place land coverage on the real property are retired or otherwise terminated.~~

~~6.]~~ The State Land Registrar shall report quarterly to the State Board of Examiners regarding the real property or interests in real property transferred pursuant to this section.

~~[7.]~~ ***6.*** As used in this section, "land coverage" means any covering over the natural surface of the ground that prevents water from percolating into the ground.

Sec. 16. Section 22 of the Western Regional Water Commission Act, being chapter 531, Statutes of Nevada 2007, at page 3289, is hereby amended to read as follows:

Sec. 22. Planning area: Boundaries; exclusions; exceptions.

1. The planning area in which plans for the use, management and conservation of water are to be made, pursuant to this act, is the entire area within the boundaries of Washoe County except:

(a) Any land within the region defined by NRS ~~[277.200, the Tahoe Regional Planning Compact;]~~ ***278.790;***

(b) Land located within any Indian reservation or Indian colony which is held in trust by the United States;

(c) Land located within the Gerlach General Improvement District or its successor created pursuant to chapter 318 of NRS;

(d) Land located within the following administrative groundwater basins established by the United States Geological Survey and the Division of Water Resources of the State Department of Conservation and Natural Resources:

(1) Basin 22 (San Emidio Desert);

(2) Basin 23 (Granite Basin); and

(3) Basin 24 (Hualapai Flat); and

(e) Any land excluded by the Board pursuant to subsection 2 and not otherwise included pursuant to subsection 3.

2. The Board may exclude from the planning area any land which it determines is unsuitable for inclusion because of its remoteness from the water supplies which are the subject of the Comprehensive Plan or because it

lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the planning area.

3. The Board may include within the planning area any land otherwise excluded pursuant to subsection 2 if it finds that the land requires alleviation of the effect of flooding or drainage of storm waters or requires another benefit from planning or management performed in the planning area.

Sec. 17. Section 24 of chapter 574, Statutes of Nevada 1979, at page 1134, is hereby amended to read as follows:

Sec. 24. 1. This section shall become effective upon passage and approval.

2. All other sections of this act shall become effective upon ~~[proclamation]~~ ***:***

(a) Withdrawal from the Tahoe Regional Planning Compact by the State of Nevada; or

(b) Proclamation by the governor of a withdrawal from the Tahoe Regional Planning Compact by the State of California or of his finding that the Tahoe Regional Planning Agency has become unable, for lack of money or for any other reason, to perform its duties or to exercise its powers as provided in the compact ~~[.]~~ ***,***

➥ whichever is earlier.

Sec. 17.3. Section 3 of chapter 22, Statutes of Nevada 1987, at page 53, is hereby amended to read as follows:

Sec. 3. ~~[This]~~ ***Except as otherwise provided in this section, this*** act becomes effective upon passage and approval. ***This act does not become effective unless the contingent events described in section 2 of this act have occurred before January 1, 2011.***

Sec. 17.7. Section 4 of chapter 311, Statutes of Nevada 1997, at page 1170, is hereby amended to read as follows:

Sec. 4. 1. This section ~~[and section 3 of this act become]~~ ***becomes*** effective upon passage and approval.

2. Section 1 of this act ~~[:~~

~~(a) Becomes]~~ ***becomes*** effective upon ~~[proclamation by the governor of this state of]~~ the enactment by the State of California of amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1 of this act ***.*** ~~[, unless the amendments proposed to the Tahoe Regional Planning Compact by chapter 22, Statutes of Nevada 1987, at page 28, have been approved by the Congress of the United States before the governor issues his proclamation; and~~

~~(b) Expires by limitation upon approval by the Congress of the United States of the amendments proposed to the Tahoe Regional Planning Compact by chapter 22, Statutes of Nevada 1987, at page 28.~~

~~3. Section 2 of this act becomes effective upon proclamation by the governor of this state of:~~

~~(a) The enactment by the State of California of amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 2 of this act; and~~

~~(b) The approval by the Congress of the United States of the amendments proposed to the Tahoe Regional Planning Compact by chapter 22, Statutes of Nevada 1987, at page 28.]~~

Sec. 18. 1. NRS 244.153, 266.263, 267.123, 268.099, 269.123, 277.190, 277.200, 277.210, 277.215, 278.025, 278.826, 309.385 and 318.103 are hereby repealed.

2. Sections 1 and 2 of chapter 442, Statutes of Nevada 1985, at pages 1257 and 1258, respectively, are hereby repealed.

3. NRS 277.220 is repealed effective upon:

(a) Payment of all of the outstanding obligations of the Account for the Tahoe Regional Planning Agency created by NRS 277.220; and

(b) Transfer of the remaining balance, if any, in the Account for the Tahoe Regional Planning Agency to the Account for the Nevada Tahoe Regional Planning Agency created by section 3 of this act, as required by section 21 of this act.

Sec. 19. Except as otherwise provided in NRS 278.792 as amended by section 6 of this act, the governing body, officers, advisory planning commission, executive officer, staff and legal counsel elected or appointed pursuant to NRS 278.780 to 278.828, inclusive, shall remain in their respective offices with the Nevada Tahoe Regional Planning Agency after the withdrawal of the State of Nevada from the Tahoe Regional Planning Compact and until the expiration of their terms, termination by the appointing authority or forfeiture of office.

Sec. 19.5. 1. With respect to any approval or permit for a project that was given or issued, as applicable, by the Tahoe Regional Planning Agency before the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact:

(a) The permit or approval remains valid after that date; and

(b) The Nevada Tahoe Regional Planning Agency shall assume the responsibility of enforcing the conditions, if any, of the approval or permit.

2. With respect to any application that was pending before the Tahoe Regional Planning Agency on the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact, the Nevada Tahoe Regional Planning Agency shall process the application without requiring any new or additional filings or submissions.

Sec. 20. To protect the legal rights and interests of the State of Nevada and the Nevada Tahoe Regional Planning Agency, the Attorney General

shall, as expeditiously as possible, cause appropriate legal action to be taken to resolve, settle or terminate any proposed or pending litigation:

1. In which the Tahoe Regional Planning Agency is a party; and

2. Which involves the rights, interests, obligations or liabilities of the State of Nevada, residents of this State or the Nevada Tahoe Regional Planning Agency.

Sec. 21. As soon as practicable after the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact:

1. Any unexpended balance appropriated by the State of Nevada to, and under the control of, the Tahoe Regional Planning Agency; and

2. After the payment of any outstanding obligations pursuant to subsection 3 of section 18 of this act, any balance remaining in the Account for the Tahoe Regional Planning Agency created by NRS 277.220,

➥ must be transferred to the Account for the Nevada Tahoe Regional Planning Agency created by section 3 of this act.

Sec. 22. As soon as practicable after the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact, the governing body of the Nevada Tahoe Regional Planning Agency shall:

1. Adopt a regional plan pursuant to its authority set forth in NRS 278.8111.

2. Adopt all necessary ordinances, rules, regulations and policies to effectuate the adopted regional plan pursuant to its authority set forth in NRS 278.813.

Sec. 22.5. 1. In addition to exercising the powers and performing the duties set forth in NRS 218E.550 to 218E.580, inclusive, the Committee shall hold hearings on, and prepare for the Legislature a report concerning, the following matters:

(a) The proposed organization and staffing of the Nevada Tahoe Regional Planning Agency which would be necessary for that entity to assume the powers and duties of the Tahoe Regional Planning Agency for the portion of the Lake Tahoe Basin within the State of Nevada.

(b) A proposed schedule for the Nevada Tahoe Regional Planning Agency to adopt a regional plan and ordinances as necessary for that entity to assume the powers and duties of the Tahoe Regional Planning Agency for the portion of the Lake Tahoe Basin within the State of Nevada.

(c) The proposed annual budget, including, without limitation, estimated legal expenses, of the Nevada Tahoe Regional Planning Agency which would be necessary for that entity to assume the powers and duties of the Tahoe Regional Planning Agency for the portion of the Lake Tahoe Basin within the State of Nevada.

(d) An assessment of any potential:

(1) Consequences, including, without limitation, legal consequences, transportation consequences, moratoria on permitting and potential impacts to the economy which would likely occur; and

(2) Legal expenses, including, without limitation, litigation expenses, which would likely be incurred,

➥ in the event that the State of Nevada withdraws from the Tahoe Regional Planning Compact.

(e) Progress of the governing board of the Tahoe Regional Planning Agency toward amending or otherwise revising the regional plan described in the Tahoe Regional Planning Compact to include, without limitation:

(1) Delegation of appropriate planning matters to local, state and federal governmental entities as may be allowed by law; and

(2) Concurrence from the Executive Branches of State Government of the States of Nevada and California with respect to guiding principles and a schedule for amending the regional plan.

(f) ~~[Progress toward approving the amendments]~~ **An analysis of any changes necessary** to the Tahoe Regional Planning Compact ~~[set forth in section 1.5 of this act.]~~ **, including, without limitation:**

(1) Potential changes to the voting structure of the governing body of the Tahoe Regional Planning Agency;

(2) Potential changes that will allow the regional plan to consider economic issues; and

(3) Potential changes to the procedures for legal actions against the governing body of the Tahoe Regional Planning Agency.

2. On or before December 31, 2012, the Committee shall submit the report described in subsection 1 to the Director of the Legislative Counsel Bureau for transmission to the 77th Session of the Nevada Legislature.

3. **The Committee shall determine whether the State of Nevada should remain a party to the Tahoe Regional Planning Compact. If the Committee so determines, the Committee shall forward a bill draft request that would repeal section 1 and other related sections of this act to the Director of the Legislative Counsel Bureau for transmission to the 77th Session of the Nevada Legislature. The Committee may also consider submitting one or more additional bill draft requests that contain:**

(a) Recommendations for changes to the Tahoe Regional Planning Compact deemed to be necessary by the Committee; and

(b) Any other changes to law relating to the Tahoe Regional Planning Compact deemed to be necessary by the Committee.

4. The Committee shall consider any ongoing discussions with California, the Federal Government and any other interested parties in evaluating potential changes to the Tahoe Regional Planning Compact.

5. The Committee shall vote to appoint a delegation from among its members, consisting of one member of the Senate and two members of the Assembly, representing at least one member from each party. The delegation must be tasked with discussing possible changes to the Tahoe Regional Planning Compact with a like delegation from the California Legislature. The delegation must submit a report of its findings to the Committee not later than the final date on which the Committee will meet.

6. As used in this section, "Committee" means the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System created by NRS 218E.555.

Sec. 23. 1. The Secretary of State shall transmit:

(a) A certified copy of this act to:

(1) The Governor of the State of California; and

(2) The governing body of the Tahoe Regional Planning Agency.

(b) Two certified copies of this act to the Secretary of State of California for delivery to the respective Houses of its Legislature.

2. The Director of the Legislative Counsel Bureau shall transmit copies of section 1.5 of this act to each public officer, agency or other entity that he or she deems appropriate.

3. The Governor of this State, as soon as:

(a) The State of California has enacted amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act; and

(b) The amendments have been approved pursuant to Public Law 96-551,

➥ shall proclaim that the compact has been amended as provided in this act.

Sec. 23.5. If all of the events described in subsection 4 of section 25 of this act have not yet taken place as of July 1, ~~[2014,]~~ **2015,** the Governor, on or after that date, but before October 1, ~~[2014:]~~ **2015:**

1. Shall assess whether it is likely that all of the events described in subsection 4 of section 25 of this act will take place in the reasonably foreseeable future; and

2. May, if the Governor determines it is likely that all of the events described in subsection 4 of section 25 of this act will take place in the reasonably foreseeable future, issue a proclamation to that effect. If the Governor issues the proclamation described in this subsection, sections 1, 2 to 22, inclusive, and 24 of this act must not become effective until October 1, 2017.

Sec. 24. 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. 25. 1. This section and sections 17.3, 17.7, 22.5, 23 and 23.5 of this act become effective upon passage and approval.

2. Section 22.5 of this act expires by limitation on January 1, 2013.

3. Section 1.5 of this act becomes effective upon proclamation by the Governor of this State of:

(a) The enactment by the State of California of amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act; and

(b) The approval of the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act pursuant to Public Law 96-551.

4. Except as otherwise provided in subsection 5, sections 1, 2 to 22, inclusive, and 24 of this act become effective on October 1, ~~[~~2014,~~]~~ **2015,** unless, by that date, all of the following events have occurred:

(a) The State of California has enacted amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act;

(b) The amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act have been approved pursuant to Public Law 96-551; and

(c) The governing board of the Tahoe Regional Planning Agency has adopted an update to the 1987 Regional Plan.

5. In the event that the Governor of this State issues a proclamation pursuant to section 23.5 of this act, sections 1, 2 to 22, inclusive, and 24 of this act become effective on October 1, 2017.

LEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA

244.153 Public works: County's powers subordinate to powers of regional planning agency.

266.263 Public works: City's powers subordinate to powers of regional planning agency.

267.123 Public works: City's powers subordinate to powers of regional planning agency.

268.099 City's powers subordinate to powers of regional planning agency.

269.123 Town's powers subordinate to powers of regional planning agency.

277.190 Enactment of Tahoe Regional Planning Compact.

277.200 Text of Compact. [Effective until approval by the Congress of the United States of the proposed amendments of 1987 or until proclamation by the Governor of this State that the State of California has enacted amendments substantially similar to the amendments approved in 1997 by the Legislature of this State.]

277.210 Conflict of interest of member of governing body; penalties.

277.215 Violation of certain provisions of Code of Ordinances of Tahoe Regional Planning Agency: Peace officer authorized to take various actions; reporting of name and address of violator; exception.

277.220 Account for Tahoe Regional Planning Agency: Creation; source and use of money.

278.025 Powers of regional planning agency created by interstate compact.

278.826 Assumption of powers and duties by Agency. [Effective upon proclamation by Governor of withdrawal of California from Tahoe Regional Planning Compact or of finding by Governor that the Tahoe Regional Planning Agency has become unable to perform its duties or exercise its powers.]

309.385 Powers of district concerning location and construction of improvements subordinate to powers of regional planning agency.

318.103 Powers of district concerning location and construction of improvements subordinate to powers of regional planning agency.

Section 1 of chapter 442, Statutes of Nevada 1985, page 1257:

Section 1. NRS 278.792 is hereby amended to read as follows:

278.792 1. The Nevada Tahoe regional planning agency is hereby created as a separate legal entity.

2. The governing body of the agency consists of:

(a) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the board of supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and must reside in the territorial jurisdiction of the governmental body making the appointment.

(b) ~~[~~One member~~]~~ ***Two members*** appointed by the governor ~~[~~of Nevada, the secretary of state of Nevada or his designee, and the director of the state department of conservation and natural resources of Nevada or his designee. A member who is appointed or designated pursuant to this paragraph must

~~not be a resident of the region and shall represent the public at large within the State of Nevada.~~

~~(c) One member appointed for a 1-year term by the six other members. If at least four members are unable to agree upon the selection of a seventh member within 30 days after this section becomes effective or the occurrence of a vacancy, the governor shall make the appointment. The member appointed pursuant to this paragraph may but is not required to be a resident of the region.~~] ***of this state.***

(c) One member appointed by the speaker of the assembly, and one member appointed by the majority leader of the senate, of this state.

3. If any appointing authority fails to make an appointment within 30 days after the effective date of this section or the occurrence of a vacancy on the governing body, the governor shall make the appointment.

4. The position of any member of the governing body shall be deemed vacant if the member is absent from three consecutive meetings of the governing body in any calendar year.

5. Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing body or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this section, "economic interest" means:

(a) Any business entity operating in the region in which the member has a direct or indirect investment worth more than $1,000; ~~[.]~~

(b) Any real property located in the region in which the member has a direct or indirect interest worth more than $1,000; ~~[.]~~

(c) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating $250 or more in value received by or promised to the member within the preceding 12 months; or

(d) Any business entity operating in the region in which the member is a director, officer, partner, trustee, employee or holds any position of management.

No member or employee of the agency may make or attempt to influence ~~[an agency decision]~~ ***a decision of the agency*** in which he knows or has reason to know he has a financial interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interest of the member or employee.

Section 2 of chapter 442, Statutes of Nevada 1985, page 1258:

Sec. 2. 1. This section becomes effective upon passage and approval.

2. All other sections of this act become effective 1 minute after a proclamation by the governor of the amendment of Article III(a)(2) of the Tahoe Regional Planning Compact as proposed by Assembly Bill No. 433 of this session.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 427.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 978.

AN ACT relating to state governmental administration; providing for the merger of various state agencies into the Department of Administration; creating new divisions of the Department of Administration; creating the new Department of Tourism and Cultural Affairs; providing for the dissolution of the existing Department of Cultural Affairs and the placement of its constituent parts under the management of other departments; making certain appropriations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for: the dissolution of the Department of Cultural Affairs and the distribution of the sub-parts of the Department of Cultural Affairs among: (1) the Department of Administration; (2) the State Department of Conservation and Natural Resources; and (3) the newly-formed Department of Tourism and Cultural Affairs. This bill also provides for the elimination of the Department of Personnel and its replacement by a new division of the Department of Administration to be known as the Division of Human Resource Management; (1) significant restriction of the powers and duties of the State Public Works Board, such that the Board will only be empowered to make recommendations concerning priority of construction, adopt regulations and preside over certain appeals; (2) reclassification of the Buildings and Grounds Division of the Department of Administration as a section instead of a division; (3) placement of both the State Public Works Board and the Buildings and Grounds Division under a new division of the Department of Administration to be known as the State Public Works Division; (4) assumption of most of the powers and duties of the State Public Works Board by the State Public Works Division; and (5) elimination of the Department of Information Technology and its replacement by a new division of the Department of Administration to be known as the Division of Enterprise Information Technology Services.

Section ~~[96]~~ 147 of this bill directs the Legislative Counsel to appropriately change any references to an officer, agency or other entity whose name is changed, whose responsibilities are transferred or whose responsibilities are eliminated pursuant to the provisions of this bill. Because of **section ~~[148,]~~ 147,** necessary changes in references to entities affected by the bill may be made during the process of codifying statutes and, thus, need not be shown repeatedly in the bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 223.085 is hereby amended to read as follows:

223.085 1. The Governor may, within the limits of available money, employ such persons as he or she deems necessary to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Science, Innovation and Technology and the Governor's mansion. Any such employees are not in the classified or unclassified service of the State and serve at the pleasure of the Governor.

2. The Governor shall:

(a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and

(b) Adopt such rules and policies as he or she deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1.

3. The Governor may:

(a) Appoint a Chief Information Officer of the State; and

(b) Designate the Administrator as the Chief Information Officer of the State.

➥ If the Administrator is so appointed, the Administrator shall serve as the Chief Information Officer of the State without additional compensation.

4. As used in this section, "Administrator" means the Administrator of the Division of Enterprise Information Technology Services of the Department of Administration.

Sec. 2. NRS 223.121 is hereby amended to read as follows:

223.121 1. The Director may, upon the election of each new Governor, enter into a contract with an artist for the purpose of procuring a portrait of that Governor for display in the Capitol Building.

2. The portrait must be painted in oil colors and appropriately framed. The painting and framing must be done in the same manner, style and size as the portraits of former Governors of the State displayed in the Capitol Building.

3. The contract price must not exceed the appropriation made for this purpose to the Account for the Governor's Portrait in the State General Fund. The contract price must include the cost of the portrait and the frame.

4. The portrait and frame are subject to the approval of the Governor.

5. Upon delivery of the approved, framed portrait to the Secretary of State and its acceptance by the Director, the State Controller shall draw his or her warrant in an amount equal to the contract price and the State Treasurer shall pay the warrant from the Account for the Governor's Portrait. Any balance remaining in the Account immediately lapses to the State General Fund.

6. As used in this section, "Director" means the Director of the Department of ***Tourism and*** Cultural Affairs.

Sec. 3. NRS 225.250 is hereby amended to read as follows:

225.250 1. The Advisory Committee shall:

(a) Advise the Director of the Department of **[**Cultural Affairs**]** ***Administration*** concerning the Repository and make recommendations to support greater use of the Repository and collection of materials for the Repository;

(b) Assist the Secretary of State in identifying and proposing programs that support participatory democracy and solutions to any problem concerning the level of participatory democracy, including, without limitation, proposing methods to involve the news media in the process of addressing and proposing solutions to such a problem;

(c) Make recommendations to and discuss recommendations with the Secretary of State concerning matters brought to the attention of the Advisory Committee that relate to a program, activity, event or any combination thereof designed to increase or facilitate participatory democracy, including, without limitation, the interaction of citizens with governing bodies in the formulation and implementation of public policy;

(d) Establish a "Jean Ford Democracy Award" to honor citizens who perform exemplary service in promoting participatory democracy in this State;

(e) Support projects by national, state and local entities that encourage and advance participatory democracy, including programs established by the National Conference of State Legislatures, the State Bar of Nevada, and other public and private organizations; and

(f) Advise the Secretary of State and the Governor concerning the substance of any proclamation issued by the Governor pursuant to NRS 236.035.

2. The Advisory Committee may establish a panel to assist the Advisory Committee in carrying out its duties and responsibilities. The panel may consist of:

(a) Representatives of organizations, associations, groups or other entities committed to improving participatory democracy in this State, including, without limitation, representatives of committees that are led by youths and established to improve the teaching of the principles of participatory democracy in the schools, colleges and universities of this State; and

(b) Any other interested persons with relevant knowledge.

Sec. 4. Chapter 231 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to ~~[8.5,]~~ **8,** inclusive, of this act.

Sec. 5. ***As used in NRS 231.160 to 231.360, inclusive, and sections 5 to*** ~~*[8.5,]*~~ ***8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 and 7 of this act have the meanings ascribed to them in those sections.***

Sec. 6. ***"Department" means the Department of Tourism and Cultural Affairs.***

Sec. 7. ***"Director" means the Director of the Department.***

Sec. 8. ***The creation of the Department does not affect any bequest, devise, endowment, trust, allotment or other gift made to a division or institution of the Department and those gifts inure to the benefit of the division or institution and remain subject to any conditions or restraints placed on the gifts.***

Sec. 8.5. ~~*[1. The Director shall, from among employees in budgeted positions within the Division of Tourism and, in consultation with the Commission on Tourism, appoint an Administrator of the Division of Tourism. The Administrator must be appointed by the Director with special reference to the Administrator's training, experience, capacity and interest in tourism.*~~

~~*2. The Administrator of the Division of Tourism must have:*~~

~~*(a) A bachelor's degree; and*~~

~~*(b) Completed course work and accumulated experience in the tourism sector with at least 5 years of progressively responsible work experience in the administration of tourism, at least 2 years of which must have been in a supervisory capacity.*~~

~~*3. Except as otherwise provided pursuant to subsection 4 of NRS 231.230, the Administrator of the Division of Tourism is in the unclassified service of the State.*~~

~~*4. The Administrator of the Division of Tourism may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of the Administrator's duties.*~~

~~*5. The Administrator of the Division of Tourism, in consultation with the Director, is responsible to the Director for the general administration of the Division of Tourism and for the submission of its budgets, subject to administrative supervision by the Director.*~~

~~*6. The Administrator of the Division of Tourism shall direct the work of the Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.*~~

~~*7. To carry out the relevant provisions of NRS 231.160 to 231.360, inclusive, and sections 5 to 8.5, inclusive, of this act, and within the limit of money available to him or her, the Administrator of the Division of Tourism may enter into contracts and other lawful agreements with:*~~

~~*(a) Natural persons, organizations and institutions for services furthering the mission and goals of the Division of Tourism and the Commission on Tourism; and*~~

~~*(b) Local, regional and national associations for cooperative endeavors furthering the mission and goals of the programs of the Division of Tourism.*~~

~~*8. The Administrator of the Division of Tourism may accept gifts, contributions and bequests of unrestricted money from natural persons, foundations, corporations and other organizations and institutions to further the mission and goals of the programs of the Division.]*~~ **(Deleted by amendment.)**

Sec. 9. NRS 231.015 is hereby amended to read as follows:

231.015 1. The Interagency Committee for Coordinating Tourism and Economic Development is hereby created. The Committee consists of the Governor, who is its Chair, the Lieutenant Governor, who is its Vice Chair, the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[,]~~ ***and Cultural Affairs,*** the Executive Director of the Commission on Economic Development and such other members as the Governor may from time to time appoint. The appointed members of the Committee serve at the pleasure of the Governor.

2. The Committee shall meet at the call of the Governor.

3. The Committee shall:

(a) Identify the strengths and weaknesses in state and local governmental agencies which enhance or diminish the possibilities of tourism and economic development in this State.

(b) Foster coordination and cooperation among state and local governmental agencies, and enlist the cooperation and assistance of federal agencies, in carrying out the policies and programs of the ~~[Commission on]~~ ***Department of*** Tourism ***and Cultural Affairs*** and the Commission on Economic Development.

(c) Formulate cooperative agreements between the ~~[Commission on]~~ ***Department of*** Tourism ***and Cultural Affairs*** or the Commission on Economic Development, and state and other public agencies pursuant to the Interlocal Cooperation Act, so that ~~[each of those commissions]~~ ***the Department and Commission*** may receive applications from and, as

appropriate, give governmental approval for necessary permits and licenses to persons who wish to promote tourism, develop industry or produce motion pictures in this State.

4. The Governor may from time to time establish regional or local subcommittees to work on regional or local problems of economic development or the promotion of tourism.

Sec. 10. NRS 231.160 is hereby amended to read as follows:

231.160 ~~[There is hereby created a Commission on]~~ ***The Department of*** Tourism ~~[,]~~ ***and Cultural Affairs is hereby created,*** consisting of:

1. ~~[A]~~ ***The*** Division of Tourism; ~~[and~~

~~2. A Division of Publications, including Nevada Magazine.]~~

2. The Division of Museums and History, created by NRS 381.004;

3. The Board of Museums and History, created by NRS 381.002;

4. The Nevada Arts Council, created by NRS 233C.025;

5. The Nevada Indian Commission, created by NRS 233A.020;

6. The Board of the Nevada Arts Council, created by NRS 233C.030;

7. The Commission on Tourism; and

8. The Commission for Cultural Affairs, created by NRS 233C.200.

Sec. 11. NRS 231.200 is hereby amended to read as follows:

231.200 The ~~*[Except as otherwise provided in section 8.5 of this act, the]*~~ Commission on Tourism:

1. Shall establish the policies and approve the programs and budgets of the Division of Tourism ~~[and Division of Publications]~~ concerning:

(a) The promotion of tourism and travel in this State; and

(b) The publication of Nevada Magazine and other promotional material.

2. May adopt regulations to administer and carry out the policies and programs of ~~[those divisions.]~~ ***the Division of Tourism.***

3. May from time to time create special advisory committees to advise it on special problems of tourism. Members of special advisory committees, other than members of the Commission, may be paid the per diem allowance and travel expenses provided for state officers and employees, as the budget of the Commission permits.

Sec. 12. NRS 231.210 is hereby amended to read as follows:

231.210 The Director ***:*** ~~[of the Commission on Tourism:]~~

1. Must be appointed by the Governor from a list of three persons submitted to the Governor by the ***Lieutenant Governor from recommendations made to the Lieutenant Governor by the:***

(a) Members of the Commission ~~[.]~~ ***on Tourism;***

(b) Chair of the Commission for Cultural Affairs;

(c) Chair of the Board of Museums and History;

(d) Chair of the Nevada Indian Commission; and

(e) Chair of the Board of the Nevada Arts Council.

2. ~~[Is responsible to the Commission and serves at its pleasure.~~

~~3.]~~ Shall, except as otherwise provided in NRS 284.143, devote his or her entire time to the duties of his or her office and shall not follow any other gainful employment or occupation.

Sec. 13. NRS 231.220 is hereby amended to read as follows:

231.220 The Director ~~[of the Commission on Tourism]~~ shall direct and supervise all ~~[its]~~ administrative and technical activities ~~[,]~~ ***of the Department,*** including coordinating its plans for tourism ***,*** ~~[and]~~ publications ~~[, scheduling its programs,]~~ ***and cultural affairs,*** analyzing the effectiveness of those programs and associated expenditures, and cooperating with other governmental agencies which have programs related to travel ***,*** ~~[and]~~ tourism ~~[.]~~ ***and cultural affairs.*** In addition to other powers and duties, the Director:

1. Shall attend all ***appropriate*** meetings of the ~~[Commission]~~ ***Department*** and ***appoint a staff member to*** act as ~~[its]~~ Secretary, keeping minutes and audio recordings or transcripts of ~~[its]~~ ***all appropriate*** proceedings.

2. Shall report regularly to the ~~[Commission]~~ ***commissions, divisions and council of the Department*** concerning the administration of ~~[its]~~ ***the*** policies and programs ~~[.~~

~~3. Shall serve as the Director of the Division of Tourism.~~

~~4. Shall appoint the Administrator of the Division of Publications.~~

~~5.]~~ ***of the Department.***

3. May perform any other lawful acts which he or she considers necessary to carry out the provisions of NRS 231.160 to 231.360, inclusive ~~[.]~~ ***, and sections 5 to*** ~~*[8.5,]*~~ ***8, inclusive, of this act.***

Sec. 14. NRS 231.230 is hereby amended to read as follows:

231.230 1. The ~~[Commission on Tourism]~~ ***Department*** through ~~[its]~~ ***the*** Director may:

(a) Employ such professional, technical, clerical and operational employees as the operation of the ~~[Commission]~~ ***Department*** may require; and

(b) Employ such experts, researchers and consultants and enter into such contracts with any public or private entities as may be necessary to carry out the provisions of NRS 231.160 to 231.360, inclusive ~~[.]~~ ***, and sections 5 to*** ~~*[8.5,]*~~ ***8, inclusive, of this act.***

2. The Director ~~[and all other nonclerical employees of the Commission are]~~ ***is*** in the unclassified service of the State.

3. ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** clerical employees of the ~~[Commission]~~ ***Department*** are in the classified service of the State.

4. The Director may appoint to the Department employees in either the classified or unclassified service of the State, in accordance with the

historical manner of categorization, unless state or federal law or regulation requires otherwise.

Sec. 15. NRS 231.240 is hereby amended to read as follows:

231.240 1. The Director ~~[of the Commission on Tourism]~~ may charge reasonable fees for materials prepared for distribution.

2. All such fees must be deposited with the State Treasurer for credit to the ~~[Commission.]~~ ***Department.*** The fees must first be expended exclusively for materials and labor incident to preparing and printing those materials for distribution. Any remaining fees may be expended, in addition to any other money appropriated, for the support of the ~~[Commission.]~~ ***Department.***

Sec. 16. NRS 231.250 is hereby amended to read as follows:

231.250 The Fund for the Promotion of Tourism is hereby created as a special revenue Fund. The money in the Fund is hereby appropriated for the support of the ~~[Commission on Tourism.]~~ ***Department.***

Sec. 17. NRS 231.260 is hereby amended to read as follows:

231.260 The ~~[Commission on Tourism,]~~ ***Department,*** through ~~[its]~~ ***the*** Division of Tourism, shall:

1. Promote this State so as to increase the number of domestic and international tourists.

2. Promote special events ***and exhibitions*** which are designed to increase tourism.

3. Develop a State Plan to Promote Travel and Tourism in Nevada.

4. Develop a comprehensive program of marketing and advertising, for both domestic and international markets, which publicizes travel and tourism in Nevada in order to attract more visitors to this State or lengthen their stay.

5. Provide and administer grants of money or matching grants to political subdivisions of the State, to fair and recreation boards, and to local or regional organizations which promote travel and tourism, to assist them in:

(a) Developing local programs for marketing and advertising which are consistent with the State Plan.

(b) Promoting specific events and attractions in their communities.

(c) Evaluating the effectiveness of the local programs and events.

➥ Each recipient must provide an amount of money, at least equal to the grant, for the same purpose, except, in a county whose population is less than ~~[50,000,]~~ ***100,000,*** the ~~[Commission]~~ ***Division*** may, if convinced that the recipient is financially unable to do so, provide a grant with less than equal matching money provided by the recipient.

6. Coordinate and assist the programs of travel and tourism of counties, cities, local and regional organizations for travel and tourism, fair and recreation boards and transportation authorities in the State. Local governmental agencies which promote travel and tourism shall coordinate their promotional programs with those of the ~~[Commission.]~~ ***Division.***

7. Encourage cooperation between public agencies and private persons who have an interest in promoting travel and tourism in Nevada.

8. Compile or obtain by contract, keep current and disseminate statistics and other marketing information on travel and tourism in Nevada.

9. Prepare and publish ~~[, with the assistance of the Division of Publications,]~~ brochures, travel guides, directories and other materials which promote travel and tourism in Nevada.

10. Publish or cause to be published a magazine to be known as the Nevada Magazine. The Nevada Magazine must contain materials which educate the general public about this State and thereby foster awareness and appreciation of Nevada's heritage, culture, historical monuments, natural wonders and natural resources.

Sec. 18. NRS 231.270 is hereby amended to read as follows:

231.270 In addition to its other duties, the ~~[Commission on Tourism through its]~~ Division of Tourism may:

1. Form a statewide council or regional councils on tourism, whose members include representatives from businesses, trade associations and governmental agencies, to provide for exchange of information and coordination of programs on travel and tourism.

2. Produce or cooperate in the production of promotional films which are suitable for broadcasting on television and presenting to organizations involved in travel or tourism.

3. Establish an office or offices which, by brochure, telephone, press release, videotape and other means, disseminate information on cultural, sporting, recreational and other special events, activities and facilities in the different parts of the State which will attract tourists from ***inside or*** outside the State.

Sec. 19. NRS 231.300 is hereby amended to read as follows:

231.300 In performing ~~[their]~~ ***his or her*** duties, the Director ~~[of the Commission on Tourism and the Administrator of the Division of Publications]~~ shall not interfere with the functions of any other state agencies, but those agencies shall, from time to time, on reasonable request, furnish the Director ~~[and Administrator]~~ with data and other information from their records bearing on the objectives of the ~~[Commission and its divisions.]~~ ***Department.*** The Director ~~[and Administrator]~~ shall avail ~~[themselves]~~ ***himself or herself*** of records and assistance of such other state agencies as might make a contribution to the work of the ~~[Commission.]~~ ***Department.***

Sec. 20. NRS 231.320 is hereby amended to read as follows:

231.320 ~~["Committee"]~~ ***"Commission"*** means the ~~[Committee for the Development of Projects Relating to]~~ ***Commission on*** Tourism created by NRS ~~[231.350.]~~ ***231.170.***

Sec. 21. NRS 231.340 is hereby amended to read as follows:

231.340 "Grant Program" means the Grant Program administered by the ~~[Committee for the Development of Projects Relating to Tourism.]~~ ***Commission.***

Sec. 22. NRS 231.360 is hereby amended to read as follows:

231.360 1. The ~~[Committee]~~ ***Commission*** may provide grants of money to counties, cities, and local and regional organizations in this State for the development of projects relating to tourism to the extent that:

(a) Money in the Fund for the Promotion of Tourism created by NRS 231.250 is made available for that purpose. ~~[Not more than $200,000]~~ ***The amount*** of revenue from taxes on the gross receipts from the rental of transient lodging ~~[may be]~~ made available for that purpose in any biennium ~~[.]~~ ***must be determined through the budget process and approved by the Legislature.***

(b) Gifts, grants or other money is made available for that purpose.

2. Except as otherwise provided in this subsection, the State Controller shall, upon the request of the ~~[Committee,]~~ ***Commission,*** transfer to the State General Fund all money made available for the use of the ~~[Committee]~~ ***Commission*** pursuant to subsection 1. All such money must be accounted for separately in the State General Fund. The State Controller shall not transfer any revenue from taxes on the gross receipts from the rental of transient lodging from the Fund for the Promotion of Tourism to the State General Fund unless the transfer is approved by the Interim Finance Committee.

3. The ~~[Committee]~~ ***Commission*** shall administer the account created pursuant to subsection 2 and may make grants only from that account. Any interest earned on the money in the account must be credited to the account quarterly. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.

4. The ~~[Committee]~~ ***Commission*** shall:

(a) Develop and administer the Grant Program for the Development of Projects Relating to Tourism;

(b) Establish guidelines for the submission and review of applications to receive money from the Grant Program;

(c) Establish the criteria for eligibility to receive money from the Grant Program; and

(d) Consider and approve or disapprove applications for money from the Grant Program.

5. Except as otherwise provided in subsection 6, as a condition of eligibility for a grant from the ~~[Committee]~~ ***Commission*** pursuant to this section, an applicant must provide an amount of money, at least equal to the amount of the grant, for the same purpose.

6. If an applicant for a grant is from a county whose population is less than 100,000 and the ~~[Committee]~~ ***Commission*** determines that the applicant is financially unable to provide the matching money otherwise required by subsection 5, the ~~[Committee]~~ ***Commission*** may provide a grant with less than equal matching money provided by the applicant.

Sec. 23. NRS 232.090 is hereby amended to read as follows:

232.090 1. The Department consists of the Director and the following ***:*** ~~[divisions:]~~

(a) The Division of Water Resources.

(b) The Division of State Lands.

(c) The Division of Forestry.

(d) The Division of State Parks.

(e) The Division of Conservation Districts.

(f) The Division of Environmental Protection.

(g) ***The Office of Historic Preservation.***

(h) Such other divisions as the Director may from time to time establish.

2. The State Environmental Commission, the State Conservation Commission, the Commission for the Preservation of Wild Horses, the Nevada Natural Heritage Program and the Board to Review Claims are within the Department.

Sec. 24. NRS 232.213 is hereby amended to read as follows:

232.213 1. The Department of Administration is hereby created.

2. The Department consists of a Director and the following divisions:

(a) Budget Division.

(b) Risk Management Division.

(c) Hearings Division, which consists of hearing officers, compensation officers and appeals officers.

(d) ~~[Buildings and Grounds]~~ ***State Public Works*** Division.

(e) Purchasing Division.

(f) Administrative Services Division.

(g) Division of Internal Audits.

(h) Division of Human Resource Management.

(i) Division of Enterprise Information Technology Services.

(j) Division of State Library and Archives.

3. The Director may establish a Motor Pool Division or may assign the functions of the State Motor Pool to one of the other divisions of the Department.

Sec. 25. NRS 232.215 is hereby amended to read as follows:

232.215 The Director:

1. Shall appoint ~~[a Chief]~~ ***an Administrator*** of the:

(a) Risk Management Division;

(b) ~~[Buildings and Grounds]~~ ***State Public Works*** Division;

(c) Purchasing Division;

(d) Administrative Services Division;

(e) Division of Internal Audits; ~~[and]~~

(f) ***Division of Human Resource Management;***

(g) Division of Enterprise Information Technology Services;

(h) Division of State Library and Archives; and

(i) Motor Pool Division, if separately established.

2. Shall appoint a Chief of the Budget Division, or may serve in this position if the Director has the qualifications required by NRS 353.175.

3. Shall serve as Chief of the Hearings Division and shall appoint the hearing officers and compensation officers. The Director may designate one of the appeals officers in the Division to supervise the administrative, technical and procedural activities of the Division.

4. Is responsible for the administration, through the divisions of the Department, of the provisions of chapters ***233F, 242, 284,*** 331, 333 ***,*** ~~[and]~~ 336 ***, 338, 341 and 378*** of NRS, NRS 353.150 to 353.246, inclusive, and 353A.031 to 353A.100, inclusive, and all other provisions of law relating to the functions of the divisions of the Department.

5. Is responsible for the administration of the laws of this State relating to the negotiation and procurement of medical services and other benefits for state agencies.

6. Has such other powers and duties as are provided by law.

Sec. 26. NRS 232.2165 is hereby amended to read as follows:

232.2165 ~~[1.]~~ The ~~[Chief]~~ ***Administrator*** of:

~~[(a) The Buildings and Grounds]~~

1. The State Public Works Division;

~~[(b)]~~ ***2.*** The Purchasing Division;

~~[(c)]~~ ***3.*** The Administrative Services Division;

~~[(d)]~~ ***4.*** The Division of Internal Audits; ~~[and~~

~~(e)]~~ ***5. The Division of Human Resource Management;***

6. The Division of Enterprise Information Technology Services;

7. The Division of State Library and Archives; and

8. If separately established, the Motor Pool Division,

➥ of the Department serves at the pleasure of the Director ~~[, but, except as otherwise provided in subsection 2, for all purposes except removal is in the classified]~~ ***and is in the unclassified*** service of the State.

~~[2. The Chief of the Motor Pool Division, if separately established, and the Chief of the Division of Internal Audits are in the unclassified service of the State.]~~

Sec. 27. NRS 232.217 is hereby amended to read as follows:

232.217 Unless federal law or regulation otherwise requires, the Chief of the ~~[~~:

~~1.~~ Budget Division ~~[~~;

~~2. Buildings and Grounds~~] ***and the Administrator of the:***

1. State Public Works Division;

~~[3.~~] ***2.*** Purchasing Division;

~~[4.~~] ***3.*** Division of Internal Audits; ~~[and~~]

~~[5.~~] ***4. Division of Human Resource Management;***

5. Division of Enterprise Information Technology Services;

6. Division of State Library and Archives; and

7. Motor Pool Division, if separately established,

➥ may appoint a Deputy and a Chief Assistant in the unclassified service of the State, who shall not engage in any other gainful employment or occupation except as otherwise provided in NRS 284.143.

Sec. 28. NRS 232.219 is hereby amended to read as follows:

232.219 1. The Department of Administration's Operating Fund for Administrative Services is hereby created as an internal service fund.

2. The operating budget of each of the following entities must include an amount representing that entity's share of the operating costs of the central accounting function of the Department:

(a) State Public Works ~~[Board;]~~ ***Division;***

(b) Budget Division;

(c) ~~[Buildings and Grounds Division;~~

~~(d)]~~ Purchasing Division;

~~[(e)]~~ ***(d)*** Hearings Division;

~~[(f)]~~ ***(e)*** Risk Management Division;

~~[(g)]~~ ***(f)*** Division of Internal Audits; ~~[and~~

~~(h)]~~ ***(g) Division of Human Resource Management;***

(h) Division of Enterprise Information Technology Services;

(i) Division of State Library and Archives; and

(j) If separately established, the Motor Pool Division.

3. All money received for the central accounting services of the Department must be deposited in the State Treasury for credit to the Operating Fund.

4. All expenses of the central accounting function of the Department must be paid from the Fund as other claims against the State are paid.

Sec. 29. NRS 233C.017 is hereby amended to read as follows:

233C.017 "Department" means the Department of ***Tourism and*** Cultural Affairs.

Sec. 30. NRS 233C.091 is hereby amended to read as follows:

233C.091 1. The Administrator is appointed by the Director with special reference to the Administrator's training, experience, capacity and interest in the arts. ***The Director shall consult with the Board before making the appointment.***

2. The Administrator must have:

(a) A degree in the arts, a field related to the arts or public administration; and

(b) Completed course work and accumulated experience in at least one of the arts with at least 5 years of progressively responsible work experience in the administration of arts and cultural programming, at least 2 years of which must have been in a supervisory capacity.

3. The Administrator may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of the Administrator's duties.

4. The Administrator is responsible to the Director for the general administration of the Division and for the submission of its budgets, subject to administrative supervision by the Director.

5. The Administrator shall direct the work of the Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

6. To carry out the provisions of this chapter and within the limit of money available to him or her, the Administrator may enter into contracts and other lawful agreements with:

(a) Natural persons, organizations and institutions for services furthering the mission and goals of the Division and the Board; and

(b) Local, regional and national associations for cooperative endeavors furthering the mission and goals of the programs of the Division.

7. The Administrator may accept gifts, contributions and bequests of unrestricted money from natural persons, foundations, corporations and other organizations and institutions to further the mission and goals of the programs of the Division.

8. ***Except as otherwise provided pursuant to subsection 4 of NRS 231.230, the Administrator is in the unclassified service of the State.***

9. As used in this section, "Director" means the Director of the Department.

Sec. 31. Chapter 233F of NRS is hereby amended by adding thereto the provisions set forth as sections 32 and 33 of this act.

Sec. 32. ***"Administrator" means the Administrator of the Division.***

Sec. 33. ***"Division" means the Division of Enterprise Information Technology Services of the Department.***

Sec. 34. NRS 233F.010 is hereby amended to read as follows:

233F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 233F.020 to 233F.065, inclusive, ***and sections 32 and 33 of this act*** have the meanings ascribed to them in those sections.

Sec. 35. NRS 233F.045 is hereby amended to read as follows:

233F.045 "Communications Unit" means the Communications Unit of the Communication and Computing ~~[Division]~~ ***Unit*** of the ~~[Department.]~~ ***Division.***

Sec. 36. NRS 233F.055 is hereby amended to read as follows:

233F.055 "Department" means the Department of ~~[Information Technology.]~~ ***Administration.***

Sec. 37. NRS 233F.065 is hereby amended to read as follows:

233F.065 "Telecommunications Unit" means the Telecommunications Unit of the Communication and Computing ~~[Division]~~ ***Unit*** of the ~~[Department.]~~ ***Division.***

Sec. 38. NRS 233F.080 is hereby amended to read as follows:

233F.080 The Legislature finds and declares that a state communications system is vital to the security and welfare of the State during times of emergency and in the conduct of its regular business, and that economies may be realized by joint use of the system by all state agencies. It is the purpose of the Legislature that a state communications system be developed whereby the greatest efficiency in the joint use of existing communications systems is achieved and that all communication functions and activities of state agencies be coordinated. It is not the intent of the Legislature to remove from the ~~[Department of Information Technology]~~ ***Division*** control over the state telecommunications system intended for use by state agencies and the general public.

Sec. 39. NRS 233F.110 is hereby amended to read as follows:

233F.110 1. The ~~[Director]~~ ***Administrator*** may, upon receiving a request for a microwave channel or channels from an agency, approve or disapprove that request. If the request is approved, the ~~[Department]~~ ***Division*** shall assign a channel or channels to the agency at a cost which reflects the actual share of costs incurred for services provided to the agency, in accordance with the comprehensive system of equitable billing and charges developed by the coordinator of communications.

2. Except as otherwise provided in subsection 3, a microwave channel assigned by the ~~[Director]~~ ***Administrator*** to an agency for its use must not be reassigned without the concurrence of the agency.

3. The ~~[Director]~~ ***Administrator*** may revoke the assignment of a microwave channel if an agency fails to pay for its use and may reassign that channel to another agency.

4. Equipment for microwave channels which is purchased by a using agency becomes the property of the ~~[Department]~~ ***Division*** if the agency fails to use or pay for those channels. The equipment must be used by the ~~[Department]~~ ***Division*** to replace old or obsolete equipment in the state communications system.

5. A state agency shall not purchase equipment for microwave stations without prior approval from the ~~[~~Director~~]~~ ***Administrator*** unless:

(a) The existing services do not meet the needs of the agency; or

(b) The equipment will not be used to duplicate services which are provided by the state communications system or a private company.

6. The ~~[~~Department~~]~~ ***Division*** shall reimburse an agency for buildings, facilities or equipment which is consolidated into the state communications system.

Sec. 40. NRS 233F.115 is hereby amended to read as follows:

233F.115 The ~~[~~Director~~]~~ ***Administrator*** shall designate at least one microwave channel of the state communications system for use by the fire services.

Sec. 41. NRS 218E.405 is hereby amended to read as follows:

218E.405 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, NRS 284.1729, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, ***paragraph (f) of*** subsection ~~[~~6~~]~~ ***1*** of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, 353.288, 353.335, 353C.226, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chair of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chair of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works ~~[~~Board~~]~~ ***Division*** that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chair appoints such a subcommittee:

(a) The Chair shall designate one of the members of the subcommittee to serve as the chair of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chair of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or the Director's designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 42. NRS 235.012 is hereby amended to read as follows:

235.012 1. The Director, after consulting with the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[,]~~ ***and Cultural Affairs,*** the Administrator of the Division of Museums and History of the Department of ***Tourism and*** Cultural Affairs and the Administrator of the Division of Minerals of the Commission on Mineral Resources, may contract with a mint to produce medallions made of gold, silver, platinum or nonprecious metals and bars made of gold, silver or platinum.

2. The decision of the Director to award a contract to a particular mint must be based on the ability of the mint to:

(a) Provide a product of the highest quality;

(b) Advertise and market the product properly, including the promotion of museums and tourism in this State; and

(c) Comply with the requirements of the contract.

3. The Director shall award the contract to the lowest responsible bidder, except that if in his or her judgment no satisfactory bid has been received, the Director may reject all bids.

4. All bids for the contract must be solicited in the manner prescribed in NRS 333.310 and comply with the provisions of NRS 333.330.

Sec. 43. NRS 235.014 is hereby amended to read as follows:

235.014 1. The ore used to produce a medallion or bar must be mined in Nevada, if the ore is available. If it is not available, ore newly mined in the United States may be used. Each medallion or bar made of gold, silver or platinum must be 0.999 fine. Additional series of medallions made of gold, silver or platinum at degrees of fineness of 0.900 or greater may be approved by the Director with the concurrence of the Interim Finance Committee. The degree of fineness of the materials used must be clearly indicated on each medallion.

2. Medallions may be minted in weights of 1 ounce, 0.5 ounce, 0.25 ounce and 0.1 ounce.

3. Bars may be minted in weights of 1 ounce, 5 ounces, 10 ounces and 100 ounces.

4. Each medallion must bear on its obverse The Great Seal of the State of Nevada and on its reverse a design selected by the Director, in consultation with the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[,]~~ ***and Cultural Affairs,*** the Administrator of the Division of Museums and History of the Department of ***Tourism and*** Cultural Affairs and the Administrator of the Division of Minerals of the Commission on Mineral Resources.

Sec. 44. NRS 239.005 is hereby amended to read as follows:

239.005 As used in this chapter, unless the context otherwise requires:

1. "Actual cost" means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity

incurs regardless of whether or not a person requests a copy of a particular public record.

2. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.

3. "Division" means the Division of State Library and Archives of the Department of ~~[Cultural Affairs.]~~ ***Administration.***

4. "Governmental entity" means:

(a) An elected or appointed officer of this State or of a political subdivision of this State;

(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State or of a political subdivision of this State;

(c) A university foundation, as defined in NRS 396.405; or

(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools.

Sec. 45. NRS 239.073 is hereby amended to read as follows:

239.073 1. The Committee to Approve Schedules for the Retention and Disposition of Official State Records, consisting of six members, is hereby created.

2. The Committee consists of:

(a) The Secretary of State;

(b) The Attorney General;

(c) The Director of the Department of Administration;

(d) The State Library and Archives Administrator;

(e) The ~~[Director]~~ ***Administrator of the Division of Enterprise Information Technology Services*** of the Department of ~~[Information Technology;]~~ ***Administration;*** and

(f) One member who is a representative of the general public appointed by the Governor.

➥ All members of the Committee, except the representative of the general public, are ex officio members of the Committee.

3. The Secretary of State or a person designated by the Secretary of State shall serve as Chair of the Committee. The State Library and Archives Administrator shall serve as Secretary of the Committee and prepare and maintain the records of the Committee.

4. The Committee shall meet at least quarterly and may meet upon the call of the Chair.

5. An ex officio member of the Committee may designate a person to represent the ex officio member at any meeting of the Committee. The person designated may exercise all the duties, rights and privileges of the member that the person represents.

6. The Committee may adopt rules and regulations for its management.

Sec. 46. Chapter 242 of NRS is hereby amended by adding thereto the provisions set forth as sections 47 and 48 of this act.

Sec. 47. *"Administrator" means the Administrator of the Division.*

Sec. 48. *"Division" means the Division of Enterprise Information Technology Services of the Department.*

Sec. 49. NRS 242.011 is hereby amended to read as follows:

242.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 242.015 to 242.068, inclusive, ***and sections 47 and 48 of this act*** have the meanings ascribed to them in those sections.

Sec. 50. NRS 242.031 is hereby amended to read as follows:

242.031 "Department" means the Department of ~~[~~Information Technology.~~]~~ ***Administration.***

Sec. 51. NRS 242.071 is hereby amended to read as follows:

242.071 1. The Legislature hereby determines and declares that the creation of the ***Division of Enterprise Information Technology Services of the*** Department of ~~[~~Information Technology~~]~~ ***Administration*** is necessary for the coordinated, orderly and economical processing of information in State Government, to ensure economical use of information systems and to prevent the unnecessary proliferation of equipment and personnel among the various state agencies.

2. The purposes of the ~~[~~Department~~]~~ ***Division*** are:

(a) To perform information services for state agencies.

(b) To provide technical advice but not administrative control of the information systems within the state agencies, county agencies and governing bodies and agencies of incorporated cities and towns.

Sec. 52. NRS 242.080 is hereby amended to read as follows:

242.080 1. The ***Division of Enterprise Information Technology Services of the*** Department ~~[~~of Information Technology~~]~~ is hereby created.

2. The ~~[~~Department~~]~~ ***Division*** consists of the ~~[~~Director~~]~~ ***Administrator*** and the:

(a) ~~[~~Programming Division.~~]~~ ***Enterprise Application Services Unit.***

(b) Communication and Computing ~~[~~Division.~~]~~ ***Unit.***

(c) Office of Information Security.

3. A Communications Unit and a Telecommunications Unit are hereby created within the Communication and Computing ~~[~~Division~~]~~ ***Unit*** of the ~~[~~Department.~~]~~ ***Division.***

Sec. 53. NRS 242.090 is hereby amended to read as follows:

242.090 1. The ~~[~~Governor~~]~~ ***Director of the Department*** shall appoint the ~~[~~Director~~]~~ ***Administrator*** in the unclassified service of the State. ~~[~~In selecting the Director, the Governor shall consider recommendations of the Department of Personnel relating to minimum qualifications.~~]~~

2. The ~~[Director:]~~ ***Administrator:***

(a) Serves at the pleasure of **,** ~~[the Governor]~~ and is responsible to **,** the ~~[Governor.]~~ ***Director of the Department.***

(b) Shall not engage in any other gainful employment or occupation.

Sec. 54. NRS 242.101 is hereby amended to read as follows:

242.101 1. The ~~[Director]~~ ***Administrator*** shall:

(a) Appoint the ~~[chiefs]~~ ***heads*** of the ~~[divisions]~~ ***units and offices of the Division*** in the unclassified service of the State;

(b) Administer the provisions of this chapter and other provisions of law relating to the duties of the ~~[Department;]~~ ***Division;*** and

(c) Carry out other duties and exercise other powers specified by law.

2. The ~~[Director]~~ ***Administrator*** may form committees to establish standards and determine criteria for evaluation of policies relating to informational services.

Sec. 55. NRS 242.105 is hereby amended to read as follows:

242.105 1. Except as otherwise provided in subsection 3, records and portions of records that are assembled, maintained, overseen or prepared by the ~~[Department]~~ ***Division*** to mitigate, prevent or respond to acts of terrorism, the public disclosure of which would, in the determination of the ~~[Director,]~~ ***Administrator,*** create a substantial likelihood of threatening the safety of the general public are confidential and not subject to inspection by the general public to the extent that such records and portions of records consist of or include:

(a) Information regarding the infrastructure and security of information systems, including, without limitation:

(1) Access codes, passwords and programs used to ensure the security of an information system;

(2) Access codes used to ensure the security of software applications;

(3) Procedures and processes used to ensure the security of an information system; and

(4) Plans used to reestablish security and service with respect to an information system after security has been breached or service has been interrupted.

(b) Assessments and plans that relate specifically and uniquely to the vulnerability of an information system or to the measures which will be taken to respond to such vulnerability, including, without limitation, any compiled underlying data necessary to prepare such assessments and plans.

(c) The results of tests of the security of an information system, insofar as those results reveal specific vulnerabilities relative to the information system.

2. The ~~[Director]~~ ***Administrator*** shall maintain or cause to be maintained a list of each record or portion of a record that the ~~[Director]~~ ***Administrator*** has determined to be confidential pursuant to subsection 1. The list described

in this subsection must be prepared and maintained so as to recognize the existence of each such record or portion of a record without revealing the contents thereof.

3. At least once each biennium, the ~~[Director]~~ ***Administrator*** shall review the list described in subsection 2 and shall, with respect to each record or portion of a record that the ~~[Director]~~ ***Administrator*** has determined to be confidential pursuant to subsection 1:

(a) Determine that the record or portion of a record remains confidential in accordance with the criteria set forth in subsection 1;

(b) Determine that the record or portion of a record is no longer confidential in accordance with the criteria set forth in subsection 1; or

(c) If the ~~[Director]~~ ***Administrator*** determines that the record or portion of a record is obsolete, cause the record or portion of a record to be disposed of in the manner described in NRS 239.073 to 239.125, inclusive.

4. On or before February 15 of each year, the ~~[Director]~~ ***Administrator*** shall:

(a) Prepare a report setting forth a detailed description of each record or portion of a record determined to be confidential pursuant to this section, if any, accompanied by an explanation of why each such record or portion of a record was determined to be confidential; and

(b) Submit a copy of the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) If the Legislature is in session, the standing committees of the Legislature which have jurisdiction of the subject matter; or

(2) If the Legislature is not in session, the Legislative Commission.

5. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 239C.030.

Sec. 56. NRS 244A.689 is hereby amended to read as follows:

244A.689 "Project" means:

1. Any land, building or other improvement and all real and personal properties necessary in connection therewith, whether or not in existence, suitable for:

(a) A manufacturing, industrial or warehousing enterprise;

(b) An organization for research and development;

(c) A health and care facility;

(d) A supplemental facility for a health and care facility;

(e) The purposes of a corporation for public benefit; or

(f) Affordable housing.

2. The refinancing of any land, building or other improvement and any real and personal property necessary for:

(a) A health and care facility;

(b) A supplemental facility for a health and care facility;

(c) The purposes of a corporation for public benefit; or

(d) Affordable housing.

3. Any land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination thereof or any interest therein, used by any natural person, partnership, firm, company, corporation, including a public utility, association, trust, estate, political subdivision, state agency or any other legal entity, or its legal representative, agent or assigns:

(a) For the reduction, abatement or prevention of pollution or for the removal or treatment of any substance in a processed material which otherwise would cause pollution when such material is used.

(b) In connection with the furnishing of water if available on reasonable demand to members of the general public.

(c) In connection with the furnishing of energy or gas.

4. Any real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire.

5. Any undertaking by a public utility, in addition to that allowed by subsections 2 and 3, which is solely for the purpose of making capital improvements to property, whether or not in existence, of a public utility.

6. In addition to the kinds of property described in subsections 2 and 3, if the project is for the generation and transmission of electricity, any other property necessary or useful for that purpose, including, without limitation, any leases and any rights to take water or fuel.

7. The preservation of any historic structure or its restoration for its original or another use, if the plan has been approved by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

Sec. 57. NRS 277.058 is hereby amended to read as follows:

277.058 1. A public entity, in consultation with any Indian tribe that has local aboriginal ties to the geographical area in which a unique archeological, paleontological or historical site is located and in cooperation with the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs,]~~ ***Conservation and Natural Resources,*** may enter into a cooperative agreement with the owner of any property that contains a unique archeological, paleontological or historical site in this state or with any other person, agency of the Federal Government or other public entity for the preservation, protection, restoration and enhancement of unique archeological, paleontological or historical sites in this state, including, without limitation, cooperative agreements to:

(a) Monitor compliance with and enforce any federal or state statutes or regulations for the protection of such sites.

(b) Ensure the sensitive treatment of such sites in a manner that provides for their long-term preservation and the consideration of the values of relevant cultures.

(c) Apply for and accept grants and donations for the preservation, protection, restoration and enhancement of such sites.

(d) Create and enforce:

(1) Legal restrictions on the use of real property; and

(2) Easements for conservation, as defined in NRS 111.410,

➥ for the protection of such sites.

2. As used in this section, "public entity" means any:

(a) Agency of this state, including the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs;]~~ ***Conservation and Natural Resources;*** and

(b) County, city or town in this state.

Sec. 58. NRS 281.641 is hereby amended to read as follows:

281.641 1. If any reprisal or retaliatory action is taken against a state officer or employee who discloses information concerning improper governmental action within 2 years after the information is disclosed, the state officer or employee may file a written appeal with a hearing officer of the ~~[Department of]~~ Personnel ***Commission*** for a determination of whether the action taken was a reprisal or retaliatory action. The written appeal must be accompanied by a statement that sets forth with particularity:

(a) The facts and circumstances under which the disclosure of improper governmental action was made; and

(b) The reprisal or retaliatory action that is alleged to have been taken against the state officer or employee.

➥ The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive, and the procedures adopted by the Personnel Commission pursuant to subsection 4.

2. If the hearing officer determines that the action taken was a reprisal or retaliatory action, the hearing officer may issue an order directing the proper person to desist and refrain from engaging in such action. The hearing officer shall file a copy of the decision with the Governor or any other elected state officer who is responsible for the actions of that person.

3. The hearing officer may not rule against the state officer or employee based on the person or persons to whom the improper governmental action was disclosed.

4. The Personnel Commission may adopt rules of procedure for conducting a hearing pursuant to this section that are not inconsistent with the procedures set forth in NRS 284.390 to 284.405, inclusive.

5. As used in this section, "Personnel Commission" means the Personnel Commission created by NRS 284.030.

Sec. 59. NRS 284.015 is hereby amended to read as follows:

284.015 As used in this chapter, unless the context otherwise requires:

1. "***Administrator" means the Administrator of the Division.***

2. **"**Commission" means the Personnel Commission.

~~[2. "Department" means the Department of Personnel.~~

~~3. "Director" means the Director of the Department.~~

~~4.]~~ ***3.*** **"**Disability," includes, but is not limited to, physical disability, mental retardation and mental or emotional disorder.

4. "Division" means the Division of Human Resource Management of the Department of Administration.

5. "Essential functions" has the meaning ascribed to it in 29 C.F.R. § 1630.2.

6. "Public service" means positions providing service for any office, department, board, commission, bureau, agency or institution in the Executive Department of the State Government operating by authority of the Constitution or law, and supported in whole or in part by any public money, whether the money is received from the Government of the United States or any branch or agency thereof, or from private or any other sources.

Sec. 60. NRS 284.025 is hereby amended to read as follows:

284.025 1. The ~~[Department of Personnel]~~ ***Division of Human Resource Management of the Department of Administration*** is hereby created.

2. The ~~[Department]~~ ***Division*** shall administer the provisions of this chapter.

Sec. 61. NRS 284.030 is hereby amended to read as follows:

284.030 1. There is hereby created in the ~~[Department]~~ ***Division*** a personnel commission composed of five members appointed by the Governor.

2. The Governor shall appoint:

(a) Three members who are representatives of the general public and have a demonstrated interest in or knowledge of the principles of public personnel administration.

(b) One member who is a representative of labor and has a background in personnel administration.

(c) One member who is a representative of employers or managers and has a background in personnel administration.

Sec. 62. NRS 284.172 is hereby amended to read as follows:

284.172 1. The ~~[Director]~~ ***Administrator*** shall prepare, maintain and revise as necessary a list of all positions in the classified service that consist primarily of performing data processing.

2. The request of an appointing authority that is required to use the equipment or services of the ***Division of Enterprise Information Technology***

Services of the Department of ~~[Information Technology]~~ ***Administration*** for a new position or the reclassification of an existing position to a position included on the list required by subsection 1 must be submitted to the ~~[Director]~~ ***Administrator*** of the ~~[Department of Information Technology]~~ ***Division of Enterprise Information Technology Services*** for approval before submission to the ~~[Department of Personnel.]~~ ***Division of Human Resource Management.***

Sec. 63. NRS 284.320 is hereby amended to read as follows:

284.320 1. In case of a vacancy in a position where peculiar and exceptional qualifications of a scientific, professional or expert character are required, and upon satisfactory evidence that for specific reasons competition in that case is impracticable, and that the position can best be filled by the selection of some designated person of high and recognized attainments in the required qualities, the ~~[director]~~ ***Administrator*** may suspend the requirements of competition.

2. The ~~[Director]~~ ***Administrator*** may suspend the requirements of competitive examination for positions requiring highly professional qualifications if past experience or current research indicates a difficulty in recruitment or if the qualifications include a license or certification.

3. Upon specific written justification by the appointing authority, the ~~[Director]~~ ***Administrator*** may suspend the requirement of competitive examination for a position where extreme difficulty in recruitment has been experienced and extensive efforts at recruitment have failed to produce five persons in the state service who are qualified applicants for promotion to the position.

4. Except in the circumstances described in subsection 2, no suspension may be general in its application to any position, and each case of suspension and the justifying circumstances must be reported in the biennial report of the ~~[department]~~ ***Division*** with the reasons for the suspension.

Sec. 64. NRS 284.390 is hereby amended to read as follows:

284.390 1. Within 10 working days after the effective date of an employee's dismissal, demotion or suspension pursuant to NRS 284.385, the employee who has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer of the ~~[Department]~~ ***Commission*** to determine the reasonableness of the action. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's dismissal, demotion or suspension.

2. The hearing officer shall grant the employee a hearing within 20 working days after receipt of the employee's written request unless the time limitation is waived, in writing, by the employee or there is a conflict with the hearing calendar of the hearing officer, in which case the hearing must be scheduled for the earliest possible date after the expiration of the 20 days.

3. The employee may represent himself or herself at the hearing or be represented by an attorney or other person of the employee's own choosing.

4. Technical rules of evidence do not apply at the hearing.

5. After the hearing and consideration of the evidence, the hearing officer shall render a decision in writing, setting forth the reasons therefor.

6. If the hearing officer determines that the dismissal, demotion or suspension was without just cause as provided in NRS 284.385, the action must be set aside and the employee must be reinstated, with full pay for the period of dismissal, demotion or suspension.

7. The decision of the hearing officer is binding on the parties.

8. Any petition for judicial review of the decision of the hearing officer must be filed in accordance with the provisions of chapter 233B of NRS.

Sec. 65. NRS 321.5967 is hereby amended to read as follows:

321.5967 1. There is hereby created a Board of Review composed of:

(a) The Director of the State Department of Conservation and Natural Resources;

(b) The Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;

(c) The Administrator of the Division of Minerals of the Commission on Mineral Resources;

(d) The Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources;

(e) The State Engineer;

(f) The State Forester Firewarden;

(g) The Chair of the State Environmental Commission;

(h) The Director of the State Department of Agriculture;

(i) The Chair of the Board of Wildlife Commissioners; and

(j) The Administrator of the Office of Historic Preservation of the ***State*** Department of **[**~~Cultural Affairs.~~**]** ***Conservation and Natural Resources.***

2. The Chair of the State Environmental Commission serves as Chair of the Board.

3. The Board shall meet at such times and places as are specified by a call of the Chair. Six members of the Board constitute a quorum. The affirmative vote of a majority of the Board members present is sufficient for any action of the Board.

4. Except as otherwise provided in this subsection, the members of the Board serve without compensation. The Chair of the State Environmental Commission and the Chair of the Board of Wildlife Commissioners are entitled to receive a salary of not more than $80, as fixed by the Board, for each day's attendance at a meeting of the Board.

5. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. The Board:

(a) Shall review and approve or disapprove all regulations proposed by the State Land Registrar pursuant to NRS 321.597.

(b) May review any decision of the State Land Registrar made pursuant to NRS 321.596 to 321.599, inclusive, if an appeal is taken pursuant to NRS 321.5987, and affirm, modify or reverse the decision.

(c) Shall review any plan or statement of policy concerning the use of lands in Nevada under federal management which is submitted by the State Land Use Planning Agency.

Sec. 66. NRS 331.010 is hereby amended to read as follows:

331.010 As used in NRS 331.010 to **[**~~331.145,~~**]** ***331.180,*** inclusive, unless the context otherwise requires:

1. "***Administrator" means the Administrator of the Division.***

2. ***"***Buildings and Grounds **[**~~Division"~~**]** ***Section"*** means the Buildings and Grounds ***Section of the*** Division **.** **[**~~of the Department of Administration.~~

~~2. "Chief" means the Chief of the Buildings and Grounds Division.~~**]**

3. "***Department" means the Department of Administration.***

4. ***"***Director" means the Director of the Department **.** **[**~~of Administration.~~**]**

5. "Division" means the State Public Works Division of the Department.

Sec. 67. NRS 331.020 is hereby amended to read as follows:

331.020 The **[**~~Buildings and Grounds~~**]** Division shall administer the provisions of NRS 331.010 to **[**~~331.145,~~**]** ***331.180,*** inclusive, subject to administrative supervision by the Director.

Sec. 68. NRS 331.060 is hereby amended to read as follows:

331.060 1. The **[**~~Chief~~**]** ***Administrator*** shall, within the limits of legislative appropriations, employ such clerks, engineers, electricians, painters, mechanics, janitors, gardeners and other persons as may be necessary to carry out the provisions of NRS 331.010 to **[**~~331.145,~~**]** ***331.180,*** inclusive.

2. The employees shall perform duties as assigned by the **[**~~Chief.~~**]** ***Administrator.***

3. The **[**~~Chief~~**]** ***Administrator*** is responsible for the fitness and good conduct of all employees.

Sec. 69. NRS 331.085 is hereby amended to read as follows:

331.085 The **[**~~Chief~~**]** ***Administrator*** may charge the various state departments, agencies and institutions for the cost of labor and materials for extra services provided to their respective offices by the Buildings and Grounds **[**~~Division.~~**]** ***Section.*** Extra services for which these charges may be

made include, but are not limited to, office remodeling, furniture construction and moving. Money received by the Chief for this purpose must be deposited in the Buildings and Grounds Operating Fund in the State Treasury.

Sec. 70. NRS 331.100 is hereby amended to read as follows:

331.100 The ~~[Chief]~~ ***Administrator*** has the following specific powers and duties:

1. To keep all buildings, rooms, basements, floors, windows, furniture and appurtenances clean, orderly and presentable as befitting public property.

2. To keep all yards and grounds clean and presentable, with proper attention to landscaping and horticulture.

3. Under the supervision of the State Fire Marshal, to make arrangements for the installation and maintenance of water sprinkler systems, fire extinguishers, fire hoses and fire hydrants, and to take other fire prevention and suppression measures, necessary and feasible, that may reduce the fire hazards in all buildings under his or her control.

4. To make arrangements and provision for the maintenance of the State's water system supplying the state-owned buildings at Carson City, with particular emphasis upon the care and maintenance of water reservoirs, in order that a proper and adequate supply of water be available to meet any emergency.

5. To make arrangements for the installation and maintenance of water meters designed to measure accurately the quantity of water obtained from sources not owned by the State.

6. To make arrangements for the installation and maintenance of a lawn sprinkling system on the grounds adjoining the Capitol Building at Carson City, or on any other state-owned grounds where such installation is practical or necessary.

7. To investigate the feasibility, and economies resultant therefrom, if any, of the installation of a central power meter, to measure electrical energy used by the state buildings in the vicinity of and including the Capitol Building at Carson City, assuming the buildings were served with power as one unit.

8. To purchase, use and maintain such supplies and equipment as are necessary for the care, maintenance and preservation of the buildings and grounds under his or her supervision and control.

9. Subject to the provisions of chapter 426 of NRS regarding the operation of vending stands in or on public buildings and properties by persons who are blind, to install or remove vending machines and vending stands in the buildings under his or her supervision and control, and to have control of and be responsible for their operation.

10. To cooperate with the Nevada Arts Council ~~[and]~~ ***of*** the ~~[State Public Works Board]~~ ***Department of Tourism and Cultural Affairs*** to plan the

potential purchase and placement of works of art inside or on the grounds surrounding a state building.

Sec. 71. NRS 331.102 is hereby amended to read as follows:

331.102 1. The ~~[Chief]~~ ***Administrator*** shall:

(a) Maintain accurate records reflecting the costs of administering the provisions of NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive.

(b) Between July 1 and August 1 of each even-numbered year, determine, on the basis of experience during the 2 preceding fiscal years, the estimated cost per square foot of rentable area of carrying out the functions of the Buildings and Grounds ~~[Division]~~ ***Section*** for the 2 succeeding fiscal years, and inform each department, agency and institution operating under the provisions of NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive, of the cost.

2. Each department, agency and institution occupying space in state-owned buildings maintained by the Buildings and Grounds ~~[Division,]~~ ***Section*** shall include in its budget for each of the 2 succeeding fiscal years an amount of money equal to the cost per budgeted square foot of rentable area, as determined by the ~~[Chief,]~~ ***Administrator,*** multiplied by the number of rentable square feet occupied by each department, agency or institution.

3. Except as otherwise provided in subsection 4, on July 1 of each year each department, agency or institution shall pay to the ~~[Chief]~~ ***Administrator*** for deposit in the Buildings and Grounds Operating Fund the amount of money appropriated to or authorized for the department, agency or institution for building space rental costs pursuant to its budget.

4. Any state department, agency or institution may pay building space rental costs required pursuant to subsection 3 on a date or dates other than July 1, if compliance with federal law or regulation so requires.

Sec. 72. NRS 331.110 is hereby amended to read as follows:

331.110 1. ~~[Except as otherwise provided in subsection 2, the Chief]~~ ***The Administrator*** may lease and equip office rooms outside of state buildings for the use of state officers and employees, whenever sufficient space for the officers and employees cannot be provided within state buildings, but no such lease may extend beyond the term of 1 year unless it is reviewed and approved by a majority of the members of the State Board of Examiners. The Attorney General shall approve each lease entered into pursuant to this subsection as to form and compliance with law.

2. ~~[The]~~ ***Except as otherwise provided in this subsection, the*** provisions of subsection 1 do not apply to state officers and employees of boards that are exempt from the provisions of chapter 353 of NRS pursuant to NRS 353.005. ***The provisions of subsection 1 apply to:***

(a) The Department of Public Safety;

(b) The Department of Motor Vehicles; and

(c) The State Gaming Control Board.

3. An owner of a building who enters into a contract with a state agency for occupancy in the building:

(a) If the contract is entered into before May 28, 2009, may comply with the program; and

(b) If the contract is entered into on or after May 28, 2009, shall, to the extent practicable as determined by the Administrator, comply with the program.

➥ If an owner chooses not to comply with the program pursuant to paragraph (a), a state or local agency shall not, after May 28, 2009, enter into a contract for occupancy of a building owned by the owner, except that the Administrator may authorize a state or local agency to enter into a contract for the occupancy of a building owned by an owner who does not comply with the program if the Administrator determines that it is impracticable for the owner to comply with the program.

4. As used in this section, "program" means the program established pursuant to section ~~[140]~~ 139 of this act.

Sec. 73. NRS 331.140 is hereby amended to read as follows:

331.140 1. The ~~[~~Chief~~]~~ ***Administrator*** shall take proper care to prevent any unlawful activity on or damage to any state property under the supervision and control of the ~~[~~Chief,~~]~~ ***Administrator,*** and to protect the safety of any persons on that property.

2. The Director of the Department of Public Safety shall appoint to the Capitol Police Division of that Department such personnel as may be necessary to assist the ~~[~~Chief of~~]~~ ***Administrator and*** the Buildings and Grounds ~~[~~Division~~]~~ ***Section*** in the enforcement of subsection 1. The salaries and expenses of the personnel appointed pursuant to this subsection must, within the limits of legislative authorization, be paid out of the Buildings and Grounds Operating Fund.

Sec. 74. NRS 331.160 is hereby amended to read as follows:

331.160 1. The Marlette Lake Water System, composed of the water rights, easements, pipelines, flumes and other fixtures and appurtenances used in connection with the collection, transmission and storage of water in Carson City and Washoe and Storey Counties, Nevada, acquired by the State of Nevada pursuant to law, is hereby created.

2. The purposes of the Marlette Lake Water System are:

(a) To provide adequate supplies of water to the areas served.

(b) To maintain distribution lines, flumes, dams, culverts, bridges and all other appurtenances of the system in a condition calculated to assure dependable supplies of water.

(c) To sell water under equitable and fiscally sound contractual arrangements. Any such contractual arrangements must not include the value

of the land comprising the watershed as an element in determining the cost of water sold.

3. The Department of Administration is designated as the state agency to supervise and administer the functions of the Marlette Lake Water System.

4. The Director of the Department of Administration may assign the supervision and administration of the functions of the Marlette Lake Water System to one of the divisions of the Department ***, a city or a county,*** or may establish a separate division to carry out the purposes of this section and NRS 331.170 and 331.180. Subject to the limit of money provided by legislative appropriation or revenues whose expenditure is authorized by law, the chief of that division ***, or the city or county, as applicable,*** shall employ necessary staff to carry out the provisions of this section and NRS 331.170 and 331.180.

5. The Director of the Department of Administration shall:

(a) Establish the value of water to be distributed from the Marlette Lake Water System.

(b) Include in the water rate structure provisions for recovery, over a reasonable period, of the major capital costs of improving and modernizing the System.

(c) Assure that the rate structure is equitable for all present and potential customers.

6. The Director of the Department of Administration may request the State Board of Finance to issue general obligation bonds of the State or revenue bonds in an aggregate principal amount not to exceed $25,000,000 to finance the capital costs of improving and modernizing the Marlette Lake Water System. Before any revenue bonds are issued pursuant to this subsection, the State Board of Finance must determine that sufficient revenue will be available in the Marlette Lake Water System Fund to pay the interest and installments of principal as they become due. The provisions of NRS 349.150 to 349.364, inclusive, apply to the issuance of state securities pursuant to this subsection.

7. The Legislature finds and declares that the issuance of state securities and the incurrence of indebtedness pursuant to subsection 6 is necessary for the protection and preservation of the natural resources of this State and for the purpose of obtaining the benefits thereof, and constitutes an exercise of the authority conferred by the second paragraph of Section 3 of Article 9 of the Constitution of the State of Nevada.

Sec. 75. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "***Division" means the State Public Works Division of the Department of Administration.***

9. **"**Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

~~[9.]~~ ***10.*** "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

~~[10.]~~ ***11.*** "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

~~[11.]~~ ***12.*** "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

~~[12.]~~ ***13.*** "Offense" means failing to:

(a) Pay the prevailing wage required pursuant to this chapter;

(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;

(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

(d) Comply with subsection 4 or 5 of NRS 338.070.

~~[13.]~~ ***14.*** "Prime contractor" means a contractor who:

(a) Contracts to construct an entire project;

(b) Coordinates all work performed on the entire project;

(c) Uses his or her own workforce to perform all or a part of the public work; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➥ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

~~[14.]~~ ***15.*** "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

~~[15.]~~ ***16.*** "Public work" means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

(1) Public buildings;

(2) Jails and prisons;

(3) Public roads;

(4) Public highways;

(5) Public streets and alleys;

(6) Public utilities;

(7) Publicly owned water mains and sewers;

(8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

~~[16.]~~ ***17.*** "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~[17.]~~ ***18.*** "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➥ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

~~[18.]~~ ***19.*** "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

➥ for the provision of labor, materials, equipment or supplies for a construction project.

~~[19.]~~ ***20.*** "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

~~[20.]~~ ***21.*** "Supplier" means a person who provides materials, equipment or supplies for a construction project.

~~[21.]~~ ***22.*** "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

~~[22.]~~ ***23.*** "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 76. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The ~~[State Public Works Board]~~ ***Division*** shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the ~~[State Public Works Board]~~ ***Division*** to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13845 or 338.13895;

(5) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the public work;

(6) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(7) The truthfulness and completeness of the application.

Sec. 77. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the ~~[State Public Works Board]~~ ***Division*** or the local government, the ***State Public Works*** Board or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the Board or local government. At least 10 days before the date set for the hearing, the Board or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the Board or governing body may:

(a) Administer oaths;

(b) Take testimony;

(c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;

(d) Require the production of related books, papers and documents; and

(e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The Board or governing body shall issue a decision on the matter during the hearing. The decision of the Board or governing body is a final decision for purposes of judicial review.

Sec. 78. NRS 338.13845 is hereby amended to read as follows:

338.13845 1. If the ~~[State Public Works Board]~~ ***Division*** determines that a business has made a material misrepresentation or otherwise

committed a fraudulent act in applying for the preference described in NRS 338.13844, the business is thereafter permanently prohibited from:

(a) Applying for or receiving the preference described in NRS 338.13844; and

(b) Bidding on a contract for a public work of this State.

2. If the ~~[State Public Works Board]~~ ***Division*** determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in NRS 338.13844, the business may apply to the ~~[Manager]~~ ***Administrator*** to review the decision pursuant to chapter 233B of NRS.

3. As used in this section, ~~["Manager"]~~ ***"Administrator"*** has the meaning ascribed to it in ~~[NRS 341.015.]~~ ***section 82 of this act.***

Sec. 79. NRS 338.13847 is hereby amended to read as follows:

338.13847 The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 338.1384 to 338.13847, inclusive. The regulations may include, without limitation, provisions setting forth:

1. The method by which a business may apply to receive the preference described in NRS 338.13844;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in NRS 338.13844; and

3. Such other matters as the ~~[State Public Works Board]~~ ***Division*** deems relevant.

➥ In carrying out the provisions of this section, the State Public Works Board ***and the Division*** shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and NRS 333.3369 are reasonably consistent.

Sec. 80. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240; or

(II) The Renewable Energy School Pilot Program created by NRS 701B.350.

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the ~~[~~Nevada~~]~~ ***Director of the Office of*** Energy ~~[~~Commissioner~~]~~ and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection ~~[~~11~~]~~ ***12*** of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;

(3) Geothermal energy;

(4) Solar energy;

(5) Waterpower; and

(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 81. Chapter 341 of NRS is hereby amended by adding thereto the provisions set forth as sections 82 to 85, inclusive, of this act.

Sec. 82. ***"Administrator" means the Administrator of the Division.***

Sec. 83. ***"Department" means the Department of Administration.***

Sec. 84. *"Division" means the State Public Works Division of the Department.*

Sec. 85. *1. There is hereby created the State Public Works Division of the Department of Administration.*

2. The Division consists of:

(a) The Administrator;

(b) The Buildings and Grounds Section; and

(c) The State Public Works Board.

3. The Division shall, subject to the administrative supervision of the Director of the Department, administer the provisions of this chapter and NRS 331.010 to 331.180, inclusive.

Sec. 86. NRS 341.010 is hereby amended to read as follows:

341.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 341.013 and ~~[~~341.015~~]~~ ***sections 82, 83 and 84 of this act*** have the meanings ascribed to them in those sections.

Sec. 87. NRS 341.020 is hereby amended to read as follows:

341.020 1. The State Public Works Board is hereby created.

2. The Board consists of ~~[~~seven~~]~~ ***the Director of the Department and six*** members appointed as follows:

(a) The Governor shall appoint:

(1) One member who has education or experience, or both, regarding the principles of engineering or architecture;

(2) ~~[~~One member who has education or experience, or both, regarding the principles of financing or managing public or private construction projects;

~~(3)]~~ One member who is licensed to practice law in this State and who has experience in the practice of construction law; and

~~[~~(4)~~]~~ ***(3)*** Two members who are licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

(b) The Majority Leader of the Senate shall appoint one member who is licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

(c) The Speaker of the Assembly shall appoint one member who is licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

3. Each member of the Board ***who is appointed*** serves at the pleasure of the appointing authority.

4. A vacancy on the Board ***in an appointed position*** must be filled by the appointing authority in the same manner as the original appointment.

Sec. 88. (Deleted by amendment.)

Sec. 88.5. NRS 341.070 is hereby amended to read as follows:

341.070 The Board shall:

1. Adopt such rules for the regulation of its proceedings and the transaction of its business as it deems proper.

2. Meet ~~[at least once every 3 months.]~~ ***as necessary to conduct the business of the Board for the following purposes:***

(a) Submitting reports and making recommendations as required pursuant to NRS 341.191;

(b) Adopting regulations; and

(c) Presiding over appeals taken on the following matters:

(1) The qualification of contractors; and

(2) Disputes regarding contracts.

Sec. 89. NRS 341.100 is hereby amended to read as follows:

341.100 1. The ~~[Board shall appoint a Manager and a deputy manager for compliance and code enforcement, each of whom must be approved by the Governor. The Manager]~~ ***Administrator*** and the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement serve at the pleasure of the ~~[Board and the Governor.]~~ ***Director of the Department.***

2. The ~~[Manager, with the approval of the Board,]~~ ***Administrator*** shall appoint:

(a) A deputy ~~[manager]~~ ***administrator*** for professional services; and

(b) A deputy ~~[manager for administrative, fiscal and constructional services.]~~ ***administrator of the Buildings and Grounds Section.***

➥ Each deputy ~~[manager]~~ ***administrator*** appointed pursuant to this subsection serves at the pleasure of the ~~[Manager.]~~ ***Administrator.***

3. ***The Administrator shall recommend and the Director shall appoint a deputy administrator for compliance and code enforcement. The deputy administrator appointed pursuant to this subsection has the final authority in the interpretation and enforcement of any applicable building codes.***

4. The ~~[Manager]~~ ***Administrator*** may appoint such other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

~~[4.]~~ ***5.*** The ~~[Manager]~~ ***Administrator*** and each deputy ~~[manager]~~ ***administrator*** are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, the ~~[Manager]~~ ***Administrator*** and each deputy ~~[manager]~~ ***administrator*** shall devote his or her entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.

~~[5.]~~ ***6.*** The ~~[Manager]~~ ***Administrator*** and the deputy ~~[manager]~~ ***administrator*** for professional services must each be a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS.

~~[6. The deputy manager for administrative, fiscal and constructional services must have a comprehensive knowledge of the principles of administration and a working knowledge of the principles of engineering or architecture as determined by the Board.]~~

7. The deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement must have a comprehensive knowledge of building codes and a working knowledge of the principles of engineering or architecture as determined by the ~~[Board.]~~ ***Administrator.***

8. The ~~[Manager]~~ ***Administrator*** shall:

(a) Serve as the Secretary of the Board.

(b) Manage the daily affairs of the ~~[Board.]~~ ***Division.***

(c) Represent the Board ***and the Division*** before the Legislature.

(d) Prepare and submit to the Board, for its approval, the recommended priority for proposed capital improvement projects and provide the Board with an estimate of the cost of each project.

(e) ~~[Make recommendations to the Board for the selection of]~~ ***Select*** architects, engineers and contractors.

(f) ~~[Make recommendations to the Board concerning the acceptance of]~~ ***Accept*** completed projects.

(g) Submit in writing to the ~~[Board,]~~ ***Director of the Department,*** the Governor and the Interim Finance Committee a monthly report regarding all public works projects which are a part of the approved capital improvement program. For each such project, the monthly report must include, without limitation, a detailed description of the progress of the project which highlights any specific events, circumstances or factors that may result in:

(1) Changes in the scope of the design or construction of the project or any substantial component of the project which increase or decrease the total square footage or cost of the project by 10 percent or more;

(2) Increased or unexpected costs in the design or construction of the project or any substantial component of the project which materially affect the project;

(3) Delays in the completion of the design or construction of the project or any substantial component of the project; or

(4) Any other problems which may adversely affect the design or construction of the project or any substantial component of the project.

(h) Have final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.

9. The deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement shall serve as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government.

Sec. 90. NRS 341.105 is hereby amended to read as follows:

341.105 1. When acting in the capacity of building official pursuant to subsection 9 of NRS 341.100, the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement or his or her designated representative may issue an order to compel the cessation of work on all or any portion of a building or structure based on health or safety reasons or for violations of applicable building codes or other laws or regulations.

2. If a person receives an order issued pursuant to subsection 1, the person shall immediately cease work on the building or structure or portion thereof.

3. Any person who willfully refuses to comply with an order issued pursuant to subsection 1 or who willfully encourages another person to refuse to comply or assists another person in refusing to comply with such an order is guilty of a misdemeanor and shall be punished as provided in NRS 193.150. Any penalties collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

4. In addition to the criminal penalty set forth in subsection 3, the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement may impose an administrative penalty of not more than $1,000 per day for each day that a person violates subsection 3.

5. If a person wishes to contest an order issued to the person pursuant to subsection 1, the person may bring an action in district court. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. An action brought pursuant to this subsection does not stay enforcement of the order unless the district court orders otherwise.

6. If a person refuses to comply with an order issued pursuant to subsection 1, the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement may bring an action in the name of the State of Nevada in district court to compel compliance and to collect any administrative penalties imposed pursuant to subsection 4. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. Any attorney's fees and costs awarded by the court in favor of the State and any penalties collected in the action must be deposited with the State Treasurer for credit to the State General Fund.

7. No right of action exists in favor of any person by reason of any action or failure to act on the part of the ***Division, Director of the Department, Administrator,*** Board ~~[,]~~ ***or*** the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement or any officers, employees or agents of the ~~[Board]~~ ***Division*** in carrying out the provisions of this section.

8. As used in this section, "person" includes a government and a governmental subdivision, agency or instrumentality.

Sec. 91. NRS 341.110 is hereby amended to read as follows:

341.110 In general, the ~~[~~Board~~]~~ ***Administrator*** shall have such powers as may be necessary to enable ~~[~~it~~]~~ ***him or her*** to fulfill ~~[~~its~~]~~ ***his or her*** functions and to carry out the purposes of this chapter.

Sec. 92. NRS 341.119 is hereby amended to read as follows:

341.119 1. ~~[~~Upon~~]~~ ***Except as otherwise provided in this subsection, upon*** the request of the head of a state agency, the ~~[~~Board~~]~~ ***Administrator*** may delegate to that agency any of the authority granted the ~~[~~Board~~]~~ ***Division*** pursuant to NRS 341.141 to 341.148, inclusive. ***The Administrator shall not delegate the powers described in subsection 2 of NRS 341.145.***

2. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the ~~[~~Board~~]~~ ***Division*** concerning a construction project or to approve the advance planning of a project.

Sec. 93. NRS 341.141 is hereby amended to read as follows:

341.141 1. The ~~[~~Board~~]~~ ***Division*** shall furnish engineering and architectural services to the Nevada System of Higher Education and all other state departments, boards or commissions charged with the construction of any building constructed on state property or for which the money is appropriated by the Legislature, except:

(a) Buildings used in maintaining highways;

(b) Improvements, other than nonresidential buildings with more than 1,000 square feet in floor area, made:

(1) In state parks by the State Department of Conservation and Natural Resources; or

(2) By the Department of Wildlife; and

(c) Buildings on property controlled by other state agencies if the ~~[~~Board~~]~~ ***Administrator*** has delegated ~~[~~its~~]~~ ***his or her*** authority in accordance with NRS 341.119.

➥ The Board of Regents of the University of Nevada and all other state departments, boards or commissions shall use those services.

2. The services must consist of:

(a) Preliminary planning;

(b) Designing;

(c) Estimating of costs; and

(d) Preparation of detailed plans and specifications.

Sec. 94. NRS 341.145 is hereby amended to read as follows:

341.145 ***1.*** The Board:

~~[~~1.~~]~~ ***(a)*** Shall determine whether any rebates are available from a public utility for installing devices in any state building which are designed to decrease the use of energy in the building. If such a rebate is available, the ~~[~~Board~~]~~ ***Administrator*** shall apply for the rebate.

~~[~~2.~~]~~ ***(b)*** Shall solicit bids for and let all contracts for new construction or major repairs.

~~[~~3.~~]~~ ***(c)*** May negotiate with the lowest responsible and responsive bidder on any contract to obtain a revised bid if:

~~[~~(a)~~]~~ ***(1)*** The bid is less than the appropriation made by the Legislature for that building project; and

~~[~~(b)~~]~~ ***(2)*** The bid does not exceed the relevant budget item for that building project as established by the ~~[~~Board~~]~~ ***Administrator*** by more than 10 percent.

~~[~~4.~~]~~ ***(d)*** May reject any or all bids.

~~[~~5.~~]~~ ***(e)*** After the contract is let, shall supervise and inspect construction and major repairs. The cost of supervision and inspection must be financed from the capital construction program approved by the Legislature.

~~[~~6.~~]~~ ***(f)*** Shall obtain prior approval from the Interim Finance Committee before authorizing any change in the scope of the design or construction of a project as that project was authorized by the Legislature, if the change increases or decreases the total square footage or cost of the project by 10 percent or more.

~~[~~7.~~]~~ ***(g)*** Except for changes that require prior approval pursuant to ~~[~~subsection 6,~~]~~ ***paragraph (f)*** may authorize change orders, before or during construction:

~~[~~(a)~~]~~ ***(1)*** In any amount, where the change represents a reduction in the total awarded contract price.

~~[~~(b)~~]~~ ***(2)*** Except as otherwise provided in ~~[~~paragraph (c),~~]~~ ***subparagraph (3),*** not to exceed in the aggregate 15 percent of the total awarded contract price, where the change represents an increase in that price.

~~[~~(c)~~]~~ ***(3)*** In any amount, where the total awarded contract price is less than $50,000 and the change represents an increase not exceeding the amount of the total awarded contract price.

~~[~~(d)~~]~~ ***(4)*** In any amount, where additional money was authorized or appropriated by the Legislature and issuing a new contract would not be in the best interests of the State.

~~[~~8.~~]~~ ***(h)*** Shall specify in any contract with a design professional the period within which the design professional must prepare and submit to the ~~[~~Board~~]~~ ***Administrator*** a change order that has been authorized by the design professional. As used in this ~~[~~subsection,~~]~~ ***paragraph,*** "design professional" means a person with a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS.

~~[~~9.~~]~~ ***(i)*** Has final authority to accept each building or structure, or any portion thereof, on property of the State or held in trust for any division of the State Government as completed or to require necessary alterations to conform to the contract ***,*** ~~[~~or to codes adopted by the Board,~~]~~ and to file the

notice of completion ~~[and certificate of occupancy]~~ for the building or structure.

2. The deputy administrator for compliance and code enforcement, when acting as building official pursuant to subsection 9 of NRS 341.100, has the final authority in:

(a) Requiring necessary alterations to conform to any building codes adopted by the Board; and

(b) Issuing a certificate of occupancy for a building or structure.

Sec. 95. NRS 341.146 is hereby amended to read as follows:

341.146 1. The ~~[Board]~~ ***Division*** shall establish funds for projects of capital construction necessary to account for the program of capital construction approved by the Legislature. These funds must be used to account for all revenues, appropriations and expenditures restricted to constructing buildings and other projects which come under the supervision of the ~~[Board.]~~ ***Division.***

2. If a state department, board, commission or agency provides to the ~~[Board]~~ ***Division*** money that has not been appropriated by the Legislature for a capital improvement project, any interest earned on that money accrues to the benefit of the project. Upon a determination by the ~~[Board]~~ ***Administrator*** that the project is completed, the ~~[Board]~~ ***Division*** shall return any principal and interest remaining on that money to the department, board, commission or agency that had provided the money to the ~~[Board.]~~ ***Division.***

3. Except as otherwise provided in subsection 4, if the money actually received by the ~~[Board]~~ ***Division*** for a capital improvement project includes money from more than one source, the money must be expended in the following order:

(a) Money received for the project from the Federal Government;

(b) Money generated by the state department, board, commission or agency for whom the project is being performed;

(c) Money that was approved for the same or a different project during a previous biennium that has been reallocated during the current biennium for the project;

(d) Except as otherwise provided in paragraphs (e), (f) and (g), money received for the project from any other source;

(e) Money from the issuance of general obligation bonds;

(f) Money from the State Highway Fund; and

(g) Money from the State General Fund.

4. The provisions of subsection 3 do not apply if the receipt of any money from the Federal Government for the project is conditioned upon a different order of expenditure.

Sec. 96. NRS 341.153 is hereby amended to read as follows:

341.153 1. The Legislature hereby finds as facts:

(a) That the ***planning, maintenance and*** construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

(b) That this ***planning, maintenance and*** construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

(c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all ***planning, maintenance and*** construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by, and final authority for its completion and acceptance vested in, the ~~[Board]~~ ***Division*** as provided in NRS 341.141 to 341.148, inclusive.

Sec. 97. NRS 341.155 is hereby amended to read as follows:

341.155 With the concurrence of the ~~[Board,]~~ ***Administrator,*** the Board of Regents of the University of Nevada and any other state department, board or commission may enter into agreements with persons, associations or corporations to provide consulting services to determine and plan the construction work that may be necessary to meet the needs of the programs of those agencies. These contracts must be for a term not exceeding 5 years and must provide for payment of a fee for those services not to exceed one-half of 1 percent of the total value of:

1. In the case of the Nevada System of Higher Education, building construction contracts relating to the construction of a branch or facility within the Nevada System of Higher Education; and

2. In the case of another state department, board or commission, all construction contracts relating to construction for that agency,

➥ during the term and in the area covered by the contract.

Sec. 98. NRS 341.161 is hereby amended to read as follows:

341.161 1. The ~~[Board]~~ ***Administrator*** may let to a contractor licensed under chapter 624 of NRS a contract for services which assist the ~~[Board]~~ ***Division*** in the design and construction of a project of capital improvement.

2. The Board shall adopt regulations establishing procedures for:

(a) The determination of the qualifications of contractors to bid for contracts for services described in subsection 1.

(b) The bidding and awarding of such contracts, subject to the provisions of subsection 3.

(c) The awarding of construction contracts based on a final cost of the project which the contractor guarantees will not be exceeded.

(d) The scheduling and controlling of projects.

3. Bids on contracts for services which assist the ~~[Board]~~ ***Division*** in the design and construction of a project of capital improvement must state separately the contractor's cost for:

(a) Assisting the ~~[Board]~~ ***Division*** in the design and construction of the project.

(b) Obtaining all bids for subcontracts.

(c) Administering the construction contract.

4. A person who furnishes services under a contract awarded pursuant to subsection 1 is a contractor subject to all provisions pertaining to a contractor in title 28 of NRS.

Sec. 99. NRS 341.166 is hereby amended to read as follows:

341.166 1. The ~~[Board]~~ ***Administrator*** may enter into a contract for services with a contractor licensed pursuant to chapter 624 of NRS to assist the ~~[Board:]~~ ***Division:***

(a) In the development of designs, plans, specifications and estimates of costs for a proposed construction project.

(b) In the review of designs, plans, specifications and estimates of costs for a proposed construction project to ensure that the designs, plans, specifications and estimates of costs are complete and that the project is feasible to construct.

2. The ~~[Board]~~ ***Division*** is not required to advertise for bids for a contract for services pursuant to subsection 1, but may solicit bids from not fewer than three licensed contractors and may award the contract to the lowest responsible and responsive bidder.

3. The Board shall adopt regulations establishing procedures for:

(a) The determination of the qualifications of contractors to bid for the contracts for services described in subsection 1.

(b) The bidding and awarding of such contracts.

4. If a proposed construction project for which a contractor is awarded a contract for services by the ~~[Board]~~ ***Division*** pursuant to subsection 1 is advertised pursuant to NRS 338.1385, that contractor may submit a bid for the contract for the proposed construction project if the contractor is qualified pursuant to NRS 338.1375.

Sec. 100. NRS 341.211 is hereby amended to read as follows:

341.211 The ~~[Board]~~ ***Division*** shall:

1. Cooperate with other departments and agencies of the State in their planning efforts.

2. Advise and cooperate with municipal, county and other local planning commissions within the State to promote coordination between the State and the local plans and developments.

3. Cooperate with the Nevada Arts Council ~~[and]~~ ***of*** the ~~[Buildings and Grounds Division of the]~~ Department of ~~[Administration]~~ ***Tourism and Cultural Affairs*** to plan the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

Sec. 101. NRS 349.510 is hereby amended to read as follows:

349.510 "Project" means:

1. Any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether or not in existence, suitable for new construction, improvement, rehabilitation or redevelopment for:

(a) Industrial uses, including assembling, fabricating, manufacturing, processing or warehousing;

(b) Research and development relating to commerce or industry, including professional, administrative and scientific offices and laboratories;

(c) Commercial enterprises;

(d) Civic and cultural enterprises open to the general public, including theaters, museums and exhibitions, together with buildings and other structures, machinery, equipment, facilities and appurtenances thereto which the Director deems useful or desirable in connection with the conduct of any such enterprise;

(e) An educational institution operated by a nonprofit organization not otherwise directly funded by the State which is accredited by a nationally recognized educational accrediting association;

(f) Health and care facilities and supplemental facilities for health and care;

(g) The purposes of a corporation for public benefit; or

(h) A renewable energy generation project.

2. Any real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire.

3. The preservation of a historic structure or its restoration for its original or another use, if the plan has been approved by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

Sec. 102. NRS 350.575 is hereby amended to read as follows:

350.575 1. Upon the adoption of a resolution to finance the preservation or restoration of a historic structure, in the manner provided in NRS 350.087, by a municipality, a certified copy thereof must be forwarded to the Executive Director of the Department of Taxation, accompanied by a letter from the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs]~~ ***Conservation and Natural Resources*** certifying that the preservation or restoration conforms to accepted standards for such work. As

soon as is practicable, the Executive Director of the Department of Taxation shall, after consideration of the tax structure of the municipality concerned and the probable ability of the municipality to repay the requested financing, approve or disapprove the resolution in writing to the governing board. No such resolution is effective until approved by the Executive Director of the Department of Taxation. The written approval of the Executive Director of the Department of Taxation must be recorded in the minutes of the governing board.

2. If the Executive Director of the Department of Taxation does not approve the financing resolution, the governing board of the municipality may appeal the Executive Director's decision to the Nevada Tax Commission.

3. As used in this section, "historic structure" means a building, facility or other structure which is eligible for listing in the State Register of Historic Places under NRS 383.085.

Sec. 103. NRS 353.335 is hereby amended to read as follows:

353.335 1. Except as otherwise provided in subsections 5 and 6, a state agency may accept any gift or grant of property or services from any source only if it is included in an act of the Legislature authorizing expenditures of nonappropriated money or, when it is not so included, if it is approved as provided in subsection 2.

2. If:

(a) Any proposed gift or grant is necessary because of an emergency as defined in NRS 353.263 or for the protection or preservation of life or property, the Governor shall take reasonable and proper action to accept it and shall report the action and his or her reasons for determining that immediate action was necessary to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes acceptance of the gift or grant, and other provisions of this chapter requiring approval before acceptance do not apply.

(b) The Governor determines that any proposed gift or grant would be forfeited if the State failed to accept it before the expiration of the period prescribed in paragraph (c), the Governor may declare that the proposed acceptance requires expeditious action by the Interim Finance Committee. Whenever the Governor so declares, the Interim Finance Committee has 15 days after the proposal is submitted to its Secretary within which to approve or deny the acceptance. Any proposed acceptance which is not considered within the 15-day period shall be deemed approved.

(c) The proposed acceptance of any gift or grant does not qualify pursuant to paragraph (a) or (b), it must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after the proposal is submitted to its Secretary within which to consider acceptance. Any

proposed acceptance which is not considered within the 45-day period shall be deemed approved.

3. The Secretary shall place each request submitted to the Secretary pursuant to paragraph (b) or (c) of subsection 2 on the agenda of the next meeting of the Interim Finance Committee.

4. In acting upon a proposed gift or grant, the Interim Finance Committee shall consider, among other things:

(a) The need for the facility or service to be provided or improved;

(b) Any present or future commitment required of the State;

(c) The extent of the program proposed; and

(d) The condition of the national economy, and any related fiscal or monetary policies.

5. A state agency may accept:

(a) Gifts, including grants from nongovernmental sources, not exceeding $10,000 each in value; and

(b) Governmental grants not exceeding $100,000 each in value,

➥ if the gifts or grants are used for purposes which do not involve the hiring of new employees and if the agency has the specific approval of the Governor or, if the Governor delegates this power of approval to the Chief of the Budget Division of the Department of Administration, the specific approval of the Chief.

6. This section does not apply to:

(a) The Nevada System of Higher Education;

(b) The Department of Health and Human Services while acting as the state health planning and development agency pursuant to paragraph (d) of subsection 2 of NRS 439A.081 or for donations, gifts or grants to be disbursed pursuant to NRS 433.395; or

(c) Artifacts donated to the Department of ***Tourism and*** Cultural Affairs.

Sec. 104. NRS 353.3465 is hereby amended to read as follows:

353.3465 1. If the Director of the Department of ***Tourism and*** Cultural Affairs determines that current claims exceed the amount of money available because revenue from fees or assessments has not been collected or because of a delay in other expected receipts, he or she may request from the Director of the Department of Administration a temporary advance from the State General Fund for the payment of authorized expenses.

2. The Director of the Department of Administration shall notify the State Controller and the Fiscal Analysis Division of the Legislative Counsel Bureau of his or her approval of a request made pursuant to subsection 1. The State Controller shall draw his or her warrant upon receipt of the approval by the Director of the Department of Administration.

3. An advance from the State General Fund:

(a) May be approved by the Director of the Department of Administration.

(b) Is limited to 25 percent of the revenue expected to be received in the current fiscal year from any source other than legislative appropriation.

4. Any money which is temporarily advanced from the State General Fund pursuant to subsection 3 must be repaid by August 31 following the end of the immediately preceding fiscal year.

Sec. 105. NRS 361A.050 is hereby amended to read as follows:

361A.050 "Open-space use" means the current employment of land, the preservation of which use would conserve and enhance natural or scenic resources, protect streams and water supplies, maintain natural features which enhance control of floods or preserve sites designated as historic by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.*** The use of real property and the improvements on that real property as a golf course shall be deemed to be an open-space use of the land. The use of land to lease surface water rights appurtenant to the property to a political subdivision of this State for a municipal use shall be deemed to be an open-space use of the land, if the land was agricultural real property at the time the lease was granted.

Sec. 106. NRS 376A.010 is hereby amended to read as follows:

376A.010 As used in this chapter, unless the context otherwise requires:

1. "Open-space land" means land that is undeveloped natural landscape, including, but not limited to, ridges, stream corridors, natural shoreline, scenic areas, viewsheds, agricultural or other land devoted exclusively to open-space use and easements devoted to open-space use that are owned, controlled or leased by public or nonprofit agencies.

2. "Open-space plan" means the plan adopted by the board of county commissioners of a county to provide for the acquisition, development and use of open-space land.

3. "Open-space use" includes:

(a) The preservation of land to conserve and enhance natural or scenic resources;

(b) The protection of streams and stream environment zones, watersheds, viewsheds, natural vegetation and wildlife habitat areas;

(c) The maintenance of natural and artificially created features that control floods, other than dams;

(d) The preservation of natural resources and sites that are designated as historic by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs;]~~ ***Conservation and Natural Resources;*** and

(e) The development of recreational sites.

Sec. 107. Chapter 378 of NRS is hereby amended by adding thereto the provisions set forth as sections 108, 109 and 110 of this act.

Sec. 108. ***1. The Department of Administration's Communications Fund is hereby created as an internal service fund. The Fund is a***

continuing fund, and its money may not revert to the State General Fund at any time.

2. Claims against the Fund which are approved by the State Library and Archives Administrator must be paid as other claims against the State are paid.

3. Claims must be made in accordance with budget and quarterly work allotments and subject to postaudit examination and approval.

Sec. 109. ***1. All revenue resulting from:***

(a) Postage sold to state officers, departments and agencies; and

(b) Charges for proportionate costs of mail service operation,

➥ must be deposited in the State Treasury for credit to the Communications Fund created by NRS 331.103.

2. The formula for spreading costs of operation must be adjusted from time to time to preserve the Fund at not less than its initial level.

Sec. 110. ***1. The Division shall establish and conduct a Central Mailing Room for all state officers, departments and agencies located at Carson City, Nevada.***

2. Any state officer, department or agency may use the Central Mailing Room facilities if the state officer, department or agency pays the cost of such use as determined by the Division.

3. The staff of the Central Mailing Room shall deliver incoming mail and pick up and process outgoing mail, except outgoing parcel post from the Legal Division of the Legislative Counsel Bureau, other than interoffice mail, of all state officers, departments and agencies using the Central Mailing Room facilities.

Sec. 111. NRS 378.005 is hereby amended to read as follows:

378.005 As used in this chapter:

1. "Department" means the Department of ~~[Cultural Affairs.]~~ ***Administration.***

2. "Director" means the Director of the Department.

3. "Division" means the Division of State Library and Archives of the Department.

Sec. 112. NRS 378.0083 is hereby amended to read as follows:

378.0083 The creation of ***the Division in*** the Department does not affect any bequest, devise, endowment, trust, allotment or other gift made to ~~[a division or institution of the Department]~~ ***the Division*** and those gifts inure to the benefit of the ~~[division or institution]~~ ***Division*** and remain subject to any conditions or restraints placed on the gifts.

Sec. 113. NRS 378.070 is hereby amended to read as follows:

378.070 The State Library and Archives Administrator may designate the hours that the State Library and Archives must be open for the use of the

public **.** ~~[, but they must be open for at least 5 days in each week and for at least 8 hours in each day with the exception of legal holidays.]~~

Sec. 114. NRS 378A.040 is hereby amended to read as follows:

378A.040 1. The Governor shall appoint to the Board:

(a) The person who is in charge of the archives and records of the Division of State Library and Archives of the Department of ~~[Cultural Affairs.]~~ ***Administration.*** This person is the State Historical Records Coordinator for the purposes of 36 C.F.R. § 1206.36 and shall serve as Chair of the Board.

(b) A person in charge of a state-funded historical agency who has responsibilities related to archives or records, or to both archives and records.

(c) Seven other members, at least three of whom must have experience in the administration of historical records or archives. These members must represent as broadly as possible the various public and private archive and research institutions and organizations in the State.

2. After the initial terms, the Chair serves for 4 years and each other appointed member serves for 3 years. Members of the Board may be reappointed.

Sec. 115. NRS 379.0083 is hereby amended to read as follows:

379.0083 The State Library and Archives Administrator may adopt regulations establishing fees:

1. Of not more than $5 for the issuance and renewal of a certificate. The fee for issuing a duplicate certificate must be the same as for issuing the original. The money received from such fees must be paid into the State General Fund.

2. To cover the amount charged by the Federal Bureau of Investigation for processing the fingerprints of an applicant. The money received from such fees must be deposited with the State Treasurer for credit to the appropriate account of the Division of State Library and Archives of the Department of ~~[Cultural Affairs.]~~ ***Administration.***

Sec. 116. NRS 380A.031 is hereby amended to read as follows:

380A.031 1. The State Council on Libraries and Literacy is hereby created. The Council is advisory to the Division of State Library and Archives of the Department of ~~[Cultural Affairs.]~~ ***Administration.***

2. The Council consists of 11 members appointed by the Governor. Unless specifically appointed to a shorter term, the term of office of a member of the Council is 3 years and commences on July 1 of the year of appointment. The terms of office of the members of the Council must be staggered to result in, as nearly as possible, the appointment of three or four members to the Council on July 1 of each year.

Sec. 117. NRS 380A.041 is hereby amended to read as follows:

380A.041 1. The Governor shall appoint to the Council:

(a) A representative of public libraries;
(b) A trustee of a legally established library or library system;
(c) A representative of school libraries;
(d) A representative of academic libraries;
(e) A representative of special libraries or institutional libraries;
(f) A representative of persons with disabilities;
(g) A representative of the public who uses these libraries;
(h) A representative of recognized state labor organizations;
(i) A representative of private sector employers;
(j) A representative of private literacy organizations, voluntary literacy organizations or community-based literacy organizations; and
(k) A classroom teacher who has demonstrated outstanding results in teaching children or adults to read.

2. The director of the following state agencies or their designees shall serve as ex officio members of the Council:
(a) The Department of ~~[Cultural Affairs;]~~ ***Administration;***
(b) The Department of Education;
(c) The Department of Employment, Training and Rehabilitation;
(d) The Department of Health and Human Services;
(e) The Commission on Economic Development; and
(f) The Department of Corrections.

3. Officers of State Government whose agencies provide funding for literacy services may be designated by the Governor or the Chair of the Council to serve whenever matters within the jurisdiction of the agency are considered by the Council.

4. The Governor shall ensure that there is appropriate representation on the Council of urban and rural areas of the State, women, persons with disabilities, and racial and ethnic minorities.

5. A person may not serve as a member of the Council for more than two consecutive terms.

Sec. 118. NRS 381.001 is hereby amended to read as follows:

381.001 As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the Administrator of the Division.
2. "Board" means the Board of Museums and History.
3. "Department" means the Department of ***Tourism and*** Cultural Affairs.
4. "Director" means the Director of the Department.
5. "Division" means the Division of Museums and History of the Department.
6. "Institution" means an institution of the Division established pursuant to NRS 381.004.
7. "Museum director" means the executive director of an institution of the Division appointed by the Administrator pursuant to NRS 381.0062.

Sec. 119. NRS 381.002 is hereby amended to read as follows:

381.002 1. The Board of Museums and History, consisting of eleven members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Board:

(a) ~~[Six]~~ ***Five*** representatives of the general public who are knowledgeable about museums.

(b) ~~[Five]~~ ***Six*** members representing the fields of history, prehistoric archeology, historical archeology, architectural history, and architecture with qualifications as defined by the Secretary of Interior's standards for historic preservation in the following fields:

(1) One member who is qualified in history;

(2) One member who is qualified in prehistoric archeology;

(3) One member who is qualified in historic archeology;

(4) One member who is qualified in architectural history; ~~[and]~~

(5) One member who is qualified as an architect ~~[.]~~ ***; and***

(6) One additional member who is qualified, as defined by the Secretary of Interior's standards for historic preservation, in any of the fields of expertise described in subparagraphs (1) to (5), inclusive.

3. The Board shall elect a Chair and a Vice Chair from among its members at its first meeting of every even-numbered year. The terms of the Chair and Vice Chair are 2 years or until their successors are elected.

4. With respect to the functions of the Office of Historic Preservation, the Board may develop, review and approve policy for:

(a) Matters relating to the State Historic Preservation Plan;

(b) Nominations to the National Register of Historic Places and make a determination of eligibility for listing on the Register for each property nominated; and

(c) Nominations to the State Register of Historic Places and make determination of eligibility for listing on the Register for each property nominated.

5. With respect to the functions of the Division, the Board shall develop, review and make policy for investments, budgets, expenditures and general control of the Division's private and endowed dedicated trust funds pursuant to NRS 381.003 to 381.0037, inclusive.

6. In all other matters pertaining to the Office of Historic Preservation and the Division of Museums and History, the Board serves in an advisory capacity.

7. The Board may adopt such regulations as it deems necessary to carry out its powers and duties.

Sec. 120. NRS 381.003 is hereby amended to read as follows:

381.003 The Board may establish ~~[shops]~~ ***stores*** for the sale of gifts and souvenirs, such as publications, books, postcards, color slides and such other

related material as, in the judgment of the Board, is appropriately connected with the operation of the institutions or the purposes of this chapter.

Sec. 121. NRS 381.0037 is hereby amended to read as follows:

381.0037 The Board may establish:

1. A petty cash account for the Division and each institution in an amount not to exceed $500 for each account. Reimbursement of the account must be made from appropriated money paid out on claims as other claims against the State are paid.

2. A change account for each institution for which a **[**~~shop~~**]** ***store*** for the sale of gifts and souvenirs has been established pursuant to NRS 381.003, in an amount not to exceed $1,500.

Sec. 122. NRS 381.005 is hereby amended to read as follows:

381.005 1. The Administrator is appointed by the Director. The Director shall consult with the Board before making the appointment.

2. To be qualified for appointment, the Administrator must have a degree in history or science and experience in public administration.

3. **[**~~The~~**]** ***Except as otherwise provided pursuant to subsection 4 of NRS 231.230, the*** Administrator is in the unclassified service of the State.

4. The Administrator may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of his or her duties.

Sec. 123. NRS 381.0063 is hereby amended to read as follows:

381.0063 1. The Administrator shall, in accordance with any directive received from the Director pursuant to NRS 232.005 **,** **[**~~or 378.0089,~~**]** authorize or require each museum director to perform such duties set forth in subsections 2 and 3 as are necessary for the operation of the institution administered by the museum director, after giving consideration to:

(a) The size and complexity of the programs the museum director is required to administer;

(b) The number of personnel needed to carry out those programs;

(c) Requirements for accreditation; and

(d) Such other factors as are relevant to the needs of the institution and the Division.

2. The Administrator may authorize or require a museum director to:

(a) Oversee duties related to the auditing and approval of all bills, claims and accounts of the institution administered by the museum director.

(b) Receive, collect, exchange, preserve, house, care for, ***document, interpret,*** display and exhibit, particularly, but not exclusively, respecting the State of Nevada:

(1) Samples of the useful and fine arts, sciences and industries, relics, memorabilia, products, works, records, rare and valuable articles and objects, including, without limitation, drawings, etchings, lithographs, photographs,

paintings, statuary, sculpture, fabrics, furniture, implements, machines, geological and mineral specimens, precious, semiprecious and commercial minerals, metals, earths, gems and stones.

(2) Books, papers, records and documents of historic, artistic, literary or industrial value or interest by reason of rarity, representative character or otherwise.

(c) Collect, gather and prepare the natural history of Nevada and the Great Basin.

(d) Establish such programs in ***history,*** archeology, anthropology, paleontology, mineralogy, ethnology, ornithology and such other ~~[~~scientific~~]~~ programs as in the judgment of the Board and Administrator may be proper and necessary to carry out the objects and purposes appropriate to the institution administered by the museum director.

(e) Receive and collect property from any appropriate agency of the State of Nevada, or from accessions, gifts, exchanges, loans or purchases from any other agencies, persons or sources.

(f) House and preserve, care for and display or exhibit property received by an institution. This paragraph does not prevent the permanent or temporary retention, placement, housing or exhibition of a portion of the property in other places or locations in or outside of the State at the sole discretion of the Board.

(g) Make and obtain plans and specifications and let and supervise contracts for work or have the work done on force account or day labor, supplying material or labor, or otherwise.

(h) Receive, accept and obtain by exchange in the name of the State of Nevada all property loaned to the institution administered by the museum director for preservation, care, display or exhibit, or decline and reject the property in his or her discretion, and undertake to be responsible for all property loaned to the institution or make just payment of any reasonable costs or rentals therefor.

(i) Apply for and expend all gifts and grants that the institution administered by the museum director is authorized to accept in accordance with the terms and conditions of the gift or grant.

(j) Govern, manage and control the exhibit and display of all property and things of the institution administered by the museum director at other exhibits, expositions, world's fairs and places of public or private exhibition. Any property of the State of Nevada that may be placed on display or on exhibition at any world's fair or exposition must be taken into custody by the Administrator at the conclusion of the world's fair or exposition and placed and kept in the institution, subject to being removed and again exhibited at the discretion of the Administrator or a person designated by the Administrator.

(k) Negotiate and consult with and agree with other institutions, departments, officers and persons or corporations of and in the State of Nevada and elsewhere respecting quarters for and the preservation, care, transportation, storage, custody, ***documentation, interpretation,*** display and exhibit of articles and things controlled by the institutions and respecting the terms and cost, the manner, time, place and extent, and the return thereof.

(l) Trade, exchange and transfer exhibits and duplicates when the Administrator deems it proper. Such transactions shall not be deemed sales.

(m) Establish the qualifications for life, honorary, annual, sustaining and such other memberships as are established by the Board pursuant to NRS 381.0045.

(n) Adopt rules for the internal operations of the institution administered by the museum director, including, without limitation, the operation of equipment of the institution.

3. The Administrator shall require a museum director to serve as, or to designate an employee to serve as, ex officio State Paleontologist. The State Paleontologist shall, within the limits of available time, money and staff:

(a) Systematically inventory the paleontological resources within the State of Nevada;

(b) Compile a database of fossil resources within this State;

(c) Coordinate and promote paleontological research activities within this State, including, without limitation, regulating and issuing permits to engage in such activities;

(d) Disseminate and assist other persons in disseminating information gained from research conducted by the State Paleontologist; and

(e) Display and promote, and assist other persons in displaying and promoting, the paleontological resources of this State to enhance education, culture and tourism within this State.

4. The enumeration of the powers and duties that may be assigned to a museum director pursuant to this section is not exclusive of other general objects and purposes appropriate to a public museum.

5. The provisions of this section do not prohibit the Administrator from making such administrative and organizational changes as are necessary for the efficient operation of the Division and its institutions and to ensure that an institution properly carries out the duties and responsibilities assigned to that institution.

Sec. 124. NRS 381.197 is hereby amended to read as follows:

381.197 Except for action taken under an agreement with the Office of Historic Preservation of the ***State*** Department ***of Conservation and Natural Resources*** pursuant to NRS 383.430, and except as otherwise provided in this section, a person shall not investigate, explore or excavate an historic or prehistoric site on federal or state lands or remove any object therefrom

unless the person is the holder of a valid and current permit issued pursuant to the provisions of NRS 381.195 to 381.227, inclusive. Conduct that would otherwise constitute a violation of this section is not a violation of this section if it is also a violation of NRS 383.435.

Sec. 125. NRS 381.245 is hereby amended to read as follows:

381.245 The Nevada Historical Society shall preserve as is deemed appropriate all old and obsolete property and obsolete and noncurrent public records presented to it by the State Library and Archives Administrator from the archives and records of the Division of State Library and Archives of the Department ~~[.]~~ ***of Administration.***

Sec. 126. NRS 383.011 is hereby amended to read as follows:

383.011 As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the Administrator of the Office.

2. "Advisory Board" means the Board of Museums and History.

3. "Cultural resources" means any objects, sites or information of historic, prehistoric, archeological, architectural or paleontological significance.

4. "Director" means the Director of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

5. "Office" means the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

Sec. 126.5. NRS 383.021 is hereby amended to read as follows:

383.021 1. The Office of Historic Preservation is hereby created.

2. The Office shall:

(a) Encourage, plan and coordinate historic preservation and archeological activities within the State, including programs to survey, record, study and preserve or salvage cultural resources.

(b) Compile and maintain an inventory of cultural resources in Nevada deemed significant by the Administrator.

(c) Designate repositories for the materials that comprise the inventory.

(d) Provide staff assistance to the Commission for Cultural Affairs of the Department of Tourism and Cultural Affairs.

3. The Comstock Historic District Commission is within the Office.

Sec. 127. NRS 384.050 is hereby amended to read as follows:

384.050 1. The Governor shall appoint to the Commission:

(a) One member who is a county commissioner of Storey County.

(b) One member who is a county commissioner of Lyon County.

(c) One member who is the Administrator or an employee of the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

(d) Two members who are persons licensed as general engineering contractors or general building contractors pursuant to chapter 624 of NRS or

persons who hold a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(e) Four members who are persons interested in the protection and preservation of structures, sites and areas of historic interest and are residents of the district.

2. The Commission shall elect one of its members as Chair and another as Vice Chair, who shall serve for a term of 1 year or until their successors are elected and qualified.

3. Each member of the Commission is entitled to receive a salary of not more than $80, as fixed by the Commission, for each day's attendance at a meeting of the Commission.

4. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 128. NRS 407.057 is hereby amended to read as follows:

407.057 1. The Division shall maintain its headquarters office at Carson City, Nevada.

2. The Division may maintain such district or branch offices throughout the State as the Administrator may deem necessary to the efficient operation of the Division and the various sections thereof. The Administrator may, subject to the approval of the Director, enter into such leases or other agreements as may be necessary to the establishment of such district or branch offices. Such leases or agreements must be executed in cooperation with the Buildings and Grounds ~~[Division]~~ ***Section of the State Public Works Division*** of the Department of Administration and in accordance with the provisions of NRS 331.110.

Sec. 129. NRS 408.210 is hereby amended to read as follows:

408.210 1. The Director ***of the Department of Transportation*** may restrict the use of, or close, any highway whenever the Director considers the closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.

(c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the Commission on Economic Development or the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[.]~~ ***and Cultural Affairs.***

2. The Director ***of the Department of Transportation*** may:

(a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles proceeding in opposite directions or from vehicular turning

movements or cross-traffic, by constructing curbs, central dividing sections or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. The Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or the owner's agent. In lieu of personal service upon that person or agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit, and in addition thereto the sum of $100 for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, the Director may issue a license to the owner or the owner's agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from the Director to the owner of the encroachment or the owner's agent, the owner or agent may propose a time within which he or she will relocate or remove the encroachment as required. If the Director and the owner or the owner's agent agree upon such a time, the Director shall not himself remove the encroachment unless the owner or the owner's agent has failed to do so within the time agreed. If the Director and the owner or the owner's agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original notice upon the owner or the owner's agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

Sec. 130. NRS 412.052 is hereby amended to read as follows:

412.052 The Adjutant General:

1. Shall supervise the preparation and submission of all returns and reports pertaining to the militia of the State required by the United States.

2. Is the channel of official military correspondence with the Governor, and, on or before November 1 of each even-numbered year, shall report to the Governor the transactions, expenditures and condition of the Nevada National Guard. The report must include the report of the United States Property and Fiscal Officer.

3. Is the custodian of records of officers and enlisted personnel and all other records and papers required by law or regulations to be filed in the office of the Adjutant General. The Adjutant General may deposit with the Division of State Library and Archives of the Department of ~~[Cultural Affairs]~~ ***Administration*** for safekeeping records of the office that are used for historical purposes rather than the administrative purposes assigned to the office by law.

4. Shall attest all military commissions issued and keep a roll of all commissioned officers, with dates of commission and all changes occurring in the commissioned forces.

5. Shall record, authenticate and communicate to units and members of the militia all orders, instructions and regulations.

6. Shall cause to be procured, printed and circulated to those concerned all books, blank forms, laws, regulations or other publications governing the militia necessary to the proper administration, operation and training of it or to carry out the provisions of this chapter.

7. Shall keep an appropriate seal of office and affix its impression to all certificates of record issued from his or her office.

8. Shall render such professional aid and assistance and perform such military duties, not otherwise assigned, as may be ordered by the Governor.

Sec. 131. NRS 463.028 is hereby amended to read as follows:

463.028 1. The Commission shall keep its main office at Carson City, Nevada, in conjunction with the Board in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Commission may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this state, in space to be provided by the Buildings and Grounds ***Section of the State Public Works*** Division ~~[.]~~ ***of the Department of Administration.***

Sec. 132. NRS 463.100 is hereby amended to read as follows:

463.100 1. The Board shall keep its main office at Carson City, Nevada, in conjunction with the Commission in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Board may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this State as the Chair of the Board deems necessary for the efficient operation of the Board ~~[. The Chair of the~~

~~Board may enter into such leases or other agreements as may be necessary to establish a branch office.~~] ***in space provided by the Buildings and Grounds Section.***

Sec. 133. NRS 480.160 is hereby amended to read as follows:

480.160 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director deems necessary for the efficient operation of the Department and the various divisions thereof [~~. The Director may enter into such leases or other agreements as may be necessary to establish such branch offices.~~] ***in space provided by the Buildings and Grounds Section.***

Sec. 134. NRS 481.055 is hereby amended to read as follows:

481.055 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director may deem necessary to the efficient operation of the Department and the various divisions thereof [~~. The Director is authorized, on behalf of the Department, to enter into such leases or other agreements as may be necessary to the establishment of such branch offices.~~] ***in space provided by the Buildings and Grounds Section.***

Sec. 135. NRS 482.367004 is hereby amended to read as follows:

482.367004 1. There is hereby created the Commission on Special License Plates consisting of five Legislators and three nonvoting members as follows:

(a) Five Legislators appointed by the Legislative Commission:

(1) One of whom is the Legislator who served as the Chair of the Assembly Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in place of the Legislator when absent. The alternate must be another Legislator who also served on the Assembly Standing Committee on Transportation during the most recent legislative session.

(2) One of whom is the Legislator who served as the Chair of the Senate Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in place of the Legislator when absent. The alternate must be another Legislator who also served on the Senate Standing Committee on Transportation during the most recent legislative session.

(b) Three nonvoting members consisting of:

(1) The Director of the Department of Motor Vehicles, or a designee of the Director.

(2) The Director of the Department of Public Safety, or a designee of the Director.

(3) The Director of the Department of ***Tourism and*** Cultural Affairs, or a designee of the Director.

2. Each member of the Commission appointed pursuant to paragraph (a) of subsection 1 serves a term of 2 years, commencing on July 1 of each odd-numbered year. A vacancy on the Commission must be filled in the same manner as the original appointment.

3. Members of the Commission serve without salary or compensation for their travel or per diem expenses.

4. The Director of the Legislative Counsel Bureau shall provide administrative support to the Commission.

5. The Commission shall approve or disapprove:

(a) Applications for the design, preparation and issuance of special license plates that are submitted to the Department pursuant to subsection 1 of NRS 482.367002;

(b) The issuance by the Department of special license plates that have been designed and prepared pursuant to NRS 482.367002; and

(c) Except as otherwise provided in subsection 6, applications for the design, preparation and issuance of special license plates that have been authorized by an act of the Legislature after January 1, 2007.

➥ In determining whether to approve such an application or issuance, the Commission shall consider, without limitation, whether it would be appropriate and feasible for the Department to, as applicable, design, prepare or issue the particular special license plate. The Commission shall consider each application in the chronological order in which the application was received by the Department.

6. The provisions of paragraph (c) of subsection 5 do not apply with regard to special license plates that are issued pursuant to NRS 482.3785.

7. The Commission shall:

(a) Approve or disapprove any proposed change in the distribution of money received in the form of additional fees. As used in this paragraph, "additional fees" means the fees that are charged in connection with the issuance or renewal of a special license plate for the benefit of a particular cause, fund or charitable organization. The term does not include registration and license fees or governmental services taxes.

(b) If it approves a proposed change pursuant to paragraph (a) and determines that legislation is required to carry out the change, request the assistance of the Legislative Counsel in the preparation of a bill draft to carry out the change.

Sec. 136. NRS 482.37903 is hereby amended to read as follows:

482.37903 1. Except as otherwise provided in this subsection, the Department, in cooperation with the Board of Museums and History of the Department of ***Tourism and*** Cultural Affairs, shall design, prepare and issue license plates which commemorate the 100th anniversary of the founding of the City of Las Vegas, using any colors and designs that the Department deems appropriate. The Department shall not design, prepare or issue the commemorative license plates unless it receives at least 250 applications for the issuance of those plates.

2. If the Department receives at least 250 applications for the issuance of the commemorative license plates, the Department shall issue those plates for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with the commemorative license plates if that person pays the fees for the personalized prestige license plates in addition to the fees for the commemorative license plates pursuant to subsections 3 and 4.

3. The fee for the commemorative license plates is $35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of $10.

4. In addition to all other applicable registration and license fees and governmental services taxes and the fee prescribed in subsection 3, a person who requests a set of the commemorative license plates must pay for the initial issuance of the plates an additional fee of $25 and for each renewal of the plates an additional fee of $20, to be distributed pursuant to subsection 5.

5. The Department shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees to the City Treasurer of the City of Las Vegas to be used to pay for projects relating to the commemoration of the history of the City of Las Vegas, including, without limitation, historical markers, tours of historic sites and improvements to or restoration of historic buildings or structures.

6. If, during a registration year, the holder of the commemorative license plates disposes of the vehicle to which the commemorative license plates are affixed, the holder shall:

(a) Retain the commemorative license plates and affix them to another vehicle that meets the requirements of this section if the ~~[transfer and registration fees are paid as set forth in this chapter; or]~~ ***holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or***

(b) Within 30 days after removing the commemorative license plates from the vehicle, return them to the Department.

Sec. 137. NRS 482.3792 is hereby amended to read as follows:

482.3792 1. Except as otherwise provided in this subsection, the Department ***of Motor Vehicles*** shall, in cooperation with the Nevada Arts Council ~~[,]~~ ***of the Department of Tourism and Cultural Affairs,*** design, prepare and issue license plates for the support of the education of children in the arts, using any colors and designs which the Department ***of Motor Vehicles*** deems appropriate. The Department ***of Motor Vehicles*** shall not design, prepare or issue the license plates unless it receives at least 250 applications for the issuance of those plates.

2. The Department ***of Motor Vehicles*** may issue license plates for the support of the education of children in the arts for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with license plates for the support of the education of children in the arts if that person pays the fee for the personalized prestige license plates in addition to the fees for the license plates for the support of the education of children in the arts pursuant to subsections 3 and 4.

3. The fee for license plates for the support of the education of children in the arts is $35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of $10.

4. In addition to all fees for the license, registration and governmental services taxes, a person who requests a set of license plates for the support of the education of children in the arts must pay for the initial issuance of the plates an additional fee of $15 and for each renewal of the plates an additional fee of $10 to finance programs which promote the education of children in the arts.

5. The Department ***of Motor Vehicles*** shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the Account for License Plates for the Support of the Education of Children in the Arts created pursuant to NRS 233C.094.

6. If, during a registration year, the holder of license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder ~~[may retain]~~ ***shall:***

(a) Retain the plates and ~~[.~~

~~(a) Affix]~~ ***affix*** them to another vehicle which meets the requirements of this section if the ~~[transfer and registration fees are paid as set out in this~~

~~chapter; or~~] ***holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or***

(b) Within 30 days after removing the plates from the vehicle, return them to the Department ~~[.]~~ ***of Motor Vehicles.***

Sec. 138. NRS 561.235 is hereby amended to read as follows:

561.235 1. The Department shall maintain a principal office and may maintain district or branch offices throughout the State if they are necessary for the efficient operation of the Department.

2. The Director shall select the location of those offices and may enter into such leases or other agreements as may be necessary to establish them. The leases or agreements must be executed in cooperation with the Buildings and Grounds ~~[Division]~~ ***Section of the State Public Works Division*** of the Department of Administration and in accordance with the provisions of NRS 331.110.

Sec. 139. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Office of Energy shall establish a program to track the use of energy in buildings owned by the State and in other buildings which are occupied by a state agency.

2. The program established pursuant to this section must:

(a) Record utility bills for each building for each month and preserve those records indefinitely;

(b) Allow for the comparison of utility bills for a building from month to month and year to year;

(c) Allow for the comparison of utility bills between buildings, including comparisons between similar buildings or types of buildings;

(d) Allow for adjustments to the information based upon variations in weather conditions, the length of the billing period and other changes in relevant conditions;

(e) Facilitate identification of errors in utility bills and meter readings;

(f) Allow for the projection of costs for energy for a building; and

(g) Identify energy and cost savings associated with efforts to conserve energy.

3. The Office of Energy may apply for any available grants and accept any gifts, grants or donations to assist in establishing and carrying out the program.

4. In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the Interim Finance Committee may determine an amount of money to be used by the Office of Energy to fulfill the requirements of subsection 1.

5. To the extent that there is not sufficient money available for the support of the program, each state agency that occupies a building in which the use of energy is tracked pursuant to the program shall reimburse the Office of Energy for the agency's proportionate share of the unfunded portion of the cost of the program. The reimbursement must be based upon the energy consumption of the respective state agencies that occupy buildings in which the use of energy is tracked.

Sec. 140. NRS 231.280, 231.350, 233C.100, 233F.058, 242.041, 331.040, 331.095, 331.103, 331.104, 331.105, 341.015, 341.149, 378.008, 378.0086 and 378.0089 are hereby repealed.

Sec. 141. Any balance remaining in the Account for Local Cultural Activities created by NRS 233C.100 that has not been committed for expenditure before October 1, 2011, must be reverted to the State General Fund.

Sec. 141.5. ~~[For Fiscal Years 2011-2012 and 2012-2013, the Administrator of the Division of Tourism of the Department of Tourism and Cultural Affairs, appointed pursuant to section 8.5 of this act, is entitled to receive an approximate annual salary of not more than $95,453.]~~ **(Deleted by amendment.)**

Sec. 142. There is hereby appropriated from the State General Fund to the Department of Cultural Affairs the sum of $150,806 for the purpose of offsetting lower than projected admission revenue related to reductions from the State General Fund made by section 6 of chapter 10, Statutes of Nevada 2010, 26th Special Session, at page 68. Money appropriated pursuant to this section is in addition to, and must not be used to replace or supplant, any money that was appropriated by section 19 of chapter 388, Statutes of Nevada 2009, at page 2108.

Sec. 143. There is hereby appropriated from the State General Fund to the Department of Cultural Affairs the sum of $36,848 for the purpose of the retirements of employees of the Division of Museums and History of the Department. Money appropriated pursuant to this section is in addition to, and must not be used to replace or supplant, any money that was appropriated by section 19 of chapter 388, Statutes of Nevada 2009, at page 2108.

Sec. 143.5. Notwithstanding any other provision of law to the contrary, a person who has been appointed to or is otherwise incumbent in one of the following positions as of October 1, 2011, is in the classified service of the State and must remain in the classified service of the State until he or she vacates the relevant position:

1. The heads of the units and offices of the Division of Enterprise Information Technology Services of the Department of Administration.

2. The Administrator of the Nevada Arts Council of the Department of Tourism and Cultural Affairs.

3. The Administrator of the Division of Museums and History of the Department of Tourism and Cultural Affairs.

4. The Administrator of the Office of Historic Preservation of the State Department of Conservation and Natural Resources.

Sec. 144. 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

Sec. 145. 1. If the name of a fund or account is changed pursuant to the provisions of this act, the State Controller shall change the designation of the name of the fund or account without making any transfer of the money in the fund or account. The assets and liabilities of a such a fund or account are unaffected by the change of the name.

2. The assets and liabilities of any fund or account transferred from the Department of Cultural Affairs to the Department of Tourism and Cultural Affairs are unaffected by the transfer.

Sec. 146. The amendatory provisions of this act do not affect the current term of appointment of any person who, on October 1, 2011, is a member of the Commission on Tourism, the Board of the Nevada Arts Council of the Department of Cultural Affairs, the Commission for Cultural Affairs of the Department of Cultural Affairs, the Board of Museums and History of the Department of Cultural Affairs or the Division of Museums and History of the Department of Cultural Affairs.

Sec. 147. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change or remove, as applicable, any references to an officer, agency or other entity:

(a) Whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

(b) Whose responsibilities are eliminated pursuant to the provisions of this act.

2. In preparing supplements to the Nevada Administrative Code, appropriately change or remove, as applicable, any references to an officer, agency or other entity:

(a) Whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

(b) Whose responsibilities are eliminated pursuant to the provisions of this act.

Sec. 148. 1. This section and sections **142 and** 143 ~~[and 144]~~ of this act become effective upon passage and approval.

2. ~~[Sections 8.5 and 142.5 of this act become effective:~~

~~(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections, including, without limitation, recruitment, selecting appointees, making appointments, and moving offices and equipment; and~~

~~(b) On July 1, 2011, for all other purposes.~~

~~3.]~~ Sections 1 to ~~[8, inclusive, 9 to 142,]~~ **141,** inclusive, and ~~[144.5]~~ **143.5** to ~~[148,]~~ **147,** inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections, including, without limitation, recruitment, selecting appointees, making appointments, and moving offices and equipment; and

(b) On October 1, 2011, for all other purposes.

LEADLINES OF REPEALED SECTIONS

231.280 Powers and duties.

231.350 Committee: Creation; composition; vacancies; removal; compensation of members; meetings; administrative support.

233C.100 Creation; administration.

233F.058 "Director" defined.

242.041 "Director" defined.

331.040 Qualifications of Chief.

331.095 Program to track use of energy in buildings owned by State or occupied by state agency.

331.103 Department of Administration's Communications Fund: Creation; claims.

331.104 Department of Administration's Communications Fund: Revenue.
331.105 Central Mailing Room: Establishment; maintenance.
341.015 "Manager" defined.
341.149 Funding required for operation and maintenance of capital improvement.
378.008 Creation; composition.
378.0086 Director: Appointment and qualifications.
378.0089 Director: Powers and duties.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 75.

Bill read third time.

Roll call on Senate Bill No. 75:

YEAS—28.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hansen, Hardy, Hickey, Kirner, Kite, McArthur, Sherwood, Stewart, Woodbury—14.

Senate Bill No. 75 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Senate Bill No. 271

Bill 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 9:24 p.m.

ASSEMBLY IN SESSION

At 9:42 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 271 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 427.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 427:

YEAS—42.

NAYS—None.

Senate Bill No. 427 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and 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 9:45 p.m.

ASSEMBLY IN SESSION

At 9:46 p.m.

Mr. Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 582—AN ACT relating to state financial administration; providing for the submission to the voters of the question whether to impose a margin tax on business entities engaged in business in this State; providing for the imposition, administration, collection and enforcement of the margin tax if the question is approved by the voters; providing for the submission to the voters of the question whether to impose a transaction tax on the use of services in this State; providing for the imposition, administration, collection and enforcement of the transaction tax if the question is approved by the voters; providing penalties; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 9:49 p.m.

ASSEMBLY IN SESSION

At 10:56 p.m.

Mr. Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 6, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 71, 354, 383, 405, 427, 527, 550, 553, 571, 581.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 351, Amendments Nos. 737, 971; Assembly Bill No. 560, Amendment No. 983; Assembly Bill No. 578, Amendment No. 976, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolutions Nos. 12, 13.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 506.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 506.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:58 p.m.

ASSEMBLY IN SESSION

At 11:07 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker

Your Committee on Government Affairs, to which was referred Senate Bill No. 506, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 506

Bill read third time.

Remarks by Assemblymen Kirkpatrick, Smith, Daly, Stewart, Atkinson, Hardy, Carlton, Sherwood, and Hogan.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 506 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 582, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were referred Senate Bills Nos. 188, 438, 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

Assemblywoman Kirkpatrick moved that Assembly Bill No. 582 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 188.

Bill read third time.

Roll call on Senate Bill No. 188:

YEAS—30.

NAYS—Ellison, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, McArthur, Sherwood, Woodbury—12.

Senate Bill No. 188 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 438.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 438:

YEAS—42.

NAYS—None.

Senate Bill No. 438 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 506.

Bill read third time.

Roll call on Senate Bill No. 506:

YEAS—24.

NAYS—Aizley, Anderson, Atkinson, Benitez-Thompson, Bobzien, Brooks, Bustamante Adams, Carlton, Carrillo, Daly, Diaz, Frierson, Hambrick, Horne, McArthur, Neal, Ohrenschall, Pierce—18.

Senate Bill No. 506 having failed to receive a two-thirds majority, Mr. Speaker declared it lost.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Goicoechea moved that the vote whereby Senate Bill No. 506 was refused passage be reconsidered.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:38 p.m.

ASSEMBLY IN SESSION

At 11:43 p.m.

Mr. Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 506.

Bill read third time.

Roll call on Senate Bill No. 506:

YEAS—21.

NAYS—Aizley, Anderson, Atkinson, Benitez-Thompson, Bobzien, Brooks, Bustamante Adams, Carlton, Carrillo, Daly, Diaz, Goedhart, Hambrick, Hogan, Horne, McArthur, Munford, Neal, Ohrenschall, Pierce, Segerblom—21.

Senate Bill No. 506 having failed to receive a two-thirds majority, Mr. Speaker declared it lost.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 6, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 77.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 99.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 168.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 294.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 524, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 803 of the Senate be receded from and a second reprint be created in accordance with this action.

MARCUS CONKLIN	MICHAEL SCHNEIDER
KELVIN ATKINSON	SHIRLEY BREEDEN
RANDY KIRNER	MICHAEL ROBERSON
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Conklin moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 524.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 560.

The following Senate amendment was read:

Amendment No. 983.

AN ACT relating to state employees; eliminating the required payment of a state employee at the rate of time and one-half for working on a holiday; continuing the temporary suspension of the semiannual payment of longevity pay and merit pay increases for state employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides, in addition to paying state employees on state holidays, for payment at the rate of time and one-half for employees who work on a holiday. (NAC 284.256) **Section 1** of this bill eliminates this premium for working on a holiday.

Existing law provides for a plan to encourage continuity of service in State Government, under which semiannual payments are made to state employees rated standard or better with 8 years or more of continuous service, commonly known as "longevity pay." (NRS 284.177) Existing law also provides for state employees who are rated standard or better and have not attained the top step of their grade to receive a merit pay increase annually. (NRS 284.175, 284.335; NAC 284.194) Those semiannual payments and merit pay increases were temporarily suspended by the Legislature in 2009 for the 2009-2011 biennium. (Chapter 276, Statutes of Nevada 2009, p. 1164-65, as amended by chapter 465, Statutes of Nevada 2009, p. 2642-43) **Section 5** of this bill continues the suspension of those payments and increases for the next 2 fiscal years.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 284.180 is hereby amended to read as follows:

284.180 1. The Legislature declares that since uniform salary and wage rates and classifications are necessary for an effective and efficient personnel system, the pay plan must set the official rates applicable to all positions in the classified service, but the establishment of the pay plan in no way limits the authority of the Legislature relative to budgeted appropriations for salary and wage expenditures.

2. Credit for overtime work directed or approved by the head of an agency or the representative of the head of the agency must be earned at the rate of time and one-half, except for those employees described in NRS 284.148.

3. Except as otherwise provided in subsections 4, 6, 7 and 9, overtime is considered time worked in excess of:

(a) Eight hours in 1 calendar day;

(b) Eight hours in any 16-hour period; or

(c) A 40-hour week.

4. Firefighters who choose and are approved for a 24-hour shift shall be deemed to work an average of 56 hours per week and 2,912 hours per year, regardless of the actual number of hours worked or on paid leave during any biweekly pay period. A firefighter so assigned is entitled to receive 1/26 of the firefighter's annual salary for each biweekly pay period. In addition, overtime must be considered time worked in excess of:

(a) Twenty-four hours in one scheduled shift; or

(b) Fifty-three hours average per week during one work period for those hours worked or on paid leave.

➥ The appointing authority shall designate annually the length of the work period to be used in determining the work schedules for such firefighters. In addition to the regular amount paid such a firefighter for the deemed average of 56 hours per week, the firefighter is entitled to payment for the hours which comprise the difference between the 56-hour average and the overtime threshold of 53 hours average at a rate which will result in the equivalent of overtime payment for those hours.

5. The Commission shall adopt regulations to carry out the provisions of subsection 4.

6. For employees who choose and are approved for a variable workday, overtime will be considered only after working 40 hours in 1 week.

7. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour work schedule within a biweekly pay period and who choose and are approved for such a

work schedule will be considered eligible for overtime only after working 80 hours biweekly, except those eligible employees who are approved for overtime in excess of one scheduled shift of 8 or more hours per day.

8. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek.

9. This section does not supersede or conflict with existing contracts of employment for employees hired to work 24 hours a day in a home setting. Any future classification in which an employee will be required to work 24 hours a day in a home setting must be approved in advance by the Commission.

10. All overtime must be approved in advance by the appointing authority or the designee of the appointing authority. No officer or employee, other than a director of a department or the chair of a board, commission or similar body, may authorize overtime for himself or herself. The chair of a board, commission or similar body must approve in advance all overtime worked by members of the board, commission or similar body.

11. The Budget Division of the Department of Administration shall review all overtime worked by employees of the Executive Department to ensure that overtime is held to a minimum. The Budget Division shall report quarterly to the State Board of Examiners the amount of overtime worked in the quarter within the various agencies of the State.

12. A state employee is entitled to his or her normal rate of pay for working on a legal holiday unless the employee is entitled to payment for overtime pursuant to this section and the regulations adopted pursuant thereto. This payment is in addition to any payment provided for by regulation for ~~[working on]~~ a legal holiday.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. 1. The four semiannual payments to which a state employee would otherwise be entitled pursuant to NRS 284.177 must not be made during the period beginning on July 1, 2011, and ending on June 30, 2013. For the purposes of payments made pursuant to NRS 284.177 on or after July 1, 2013, any service during that 2-year period must be considered in determining the length of continuous service of an employee, but an employee is not entitled to semiannual payments that would otherwise have been made during the period during which the semiannual payments are suspended.

2. No merit pay increases to which a state employee would otherwise be entitled pursuant to chapter 284 of NRS and the regulations adopted pursuant

thereto may be granted during the period beginning on July 1, 2011, and ending on June 30, 2013. For the purposes of merit pay increases granted on or after July 1, 2013, an employee is not entitled to any increases that would otherwise have been granted during that period.

Sec. 6. This act becomes effective on July 1, 2011.

Assemblywoman Smith moved that the Assembly concur in the Senate Amendment No. 983 to Assembly Bill No. 560.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 99, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 723 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 19, which is attached to and hereby made a part of this report.

MAGGIE CARLTON	MICHAEL SCHNEIDER
	SHIRLEY BREEDEN
PAT HICKEY	JOE HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA19.

AN ACT relating to consumer protection; prescribing certain mandatory terms of a contract for grant writing services; providing certain exemptions; **revising certain provisions concerning solicitations by telephone;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 16 of this bill sets forth requirements applicable to contracts for grant writing services in this State. **Section 7** of this bill defines "grant writing service." **Section 22** of this bill provides that a violation of the provisions of this bill constitutes a deceptive trade practice. **Section 9** of this bill exempts from the provisions of this bill the providing of certain education and training relating to grants and certain grant writing services that offer services relating to affordable housing and community development projects. **Section 27 of this bill exempts certain persons from certain provisions concerning telephone solicitations.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 23, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Buyer" means a natural person who is solicited to purchase or who purchases the services of a grant writing service.***

Sec. 3.5. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. ***"Grant" means any money given by a governmental entity or any other person or organization to finance a specific or general purpose.***

Sec. 7. ***"Grant writing service" means a person who, with respect to obtaining any grant or other payment, loan or money, advertises, sells, provides or performs, or represents that he or she can or will sell, provide or perform, any of the following services in return for the payment of money or other valuable consideration:***

1. Writing an application for a grant for a buyer.

2. Obtaining a grant for a buyer.

3. Providing advice or assistance to a buyer in obtaining a grant.

Sec. 8. (Deleted by amendment.)

Sec. 9. ***The provisions of sections 2 to 23, inclusive, of this act do not apply to:***

1. A grant writing service which provides services relating to an affordable housing and community development project which is financed, in whole or in part, by tax credits for low-income housing, private activity bonds or money provided by a private entity, government, governmental agency or political subdivision of a government, including, without limitation, any money provided pursuant to 12 U.S.C. § 1701q, 26 U.S.C. § 42, 42 U.S.C. § 8013 or 42 U.S.C. §§ 12701 et seq.

2. ~~[The providing of education]~~ Education and training regarding procedures for writing, obtaining or managing grants ~~[.]~~ that is provided by an educational institution which is accredited by an accrediting body that is recognized by the United States Department of Education.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. ***A contract between a buyer and a grant writing service for the purchase of the services of the grant writing service:***

1. Must be in writing.

2. Must be signed by the buyer or, if the transaction is conducted electronically, otherwise acknowledged by the buyer.

3. Must be dated.

4. Must clearly indicate above the signature or acknowledgment line that the buyer may cancel the contract within 5 days after execution of the contract by giving written notice to the grant writing service of his or her intent to cancel the contract. If the notice is mailed, the notice must be postmarked not later than 5 days after the execution of the contract.

5. Must include a detailed description of the services to be performed by the grant writing service for the buyer and the total amount the buyer is obligated to pay for those services.

6. Must include a statement in at least 12-point bold type informing the buyer of his or her right to file a complaint concerning the grant writing service with the Bureau of Consumer Protection in the Office of the Attorney General, including the physical address and telephone number for the Bureau.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. ***Any violation of sections 2 to 23, inclusive, of this act constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.***

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 25.5. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. **NRS 228.600 is hereby amended to read as follows:**

228.600 1. The provisions of NRS 228.590 do not prohibit a telephone solicitor from making or causing another person to make an unsolicited telephone call for the sale of goods or services to a telephone number in the currently effective version of the list of telephone numbers in the registry if:

(a) There is a preexisting business relationship between the telephone solicitor and the person who is called; and

(b) The telephone solicitor complies with the provisions of this section.

2. Before a telephone solicitor may make or cause another person to make an unsolicited telephone call for the sale of goods or services based on a preexisting business relationship, the telephone solicitor must establish and maintain an internal do-not-call registry that complies with federal and state laws and regulations. The internal do-not-call registry must:

(a) Include, without limitation, a list of the telephone numbers of any person who has requested that the telephone solicitor not make or cause another person to make an unsolicited telephone call for the sale of goods or services to a telephone number of the person making the request; and

(b) Upon request, be provided by the person to the Attorney General.

3. In addition to the requirements set forth in subsection 2, at least once each year, the telephone solicitor shall provide written notice to each person with whom the telephone solicitor has a preexisting business relationship. The written notice must:

(a) Inform the person that the telephone solicitor is providing the notice pursuant to state law;

(b) Explain to the person that the telephone solicitor may elect to be placed on the internal do-not-call list of the telephone solicitor and specify the procedures for making such an election; and

(c) Explain to the person that the person may contact the customer service department of the telephone solicitor or the Attorney General to obtain further information concerning the provisions of this section and must provide the current address, telephone number and electronic mail address of the customer service department of the telephone solicitor and the Attorney General.

4. ***The provisions of subsection 3 do not apply to a person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his or her license.***

5. As used in this section, "preexisting business relationship" means a relationship between a telephone solicitor and a person that is based on:

(a) The person's purchase, rental or lease of goods or services directly from the telephone solicitor, but not from any affiliate or associate of the telephone solicitor; or

(b) Any other financial transaction directly between the person and the telephone solicitor, but not between the person and any affiliate or associate of the telephone solicitor,

➥ that occurs within the 18 months immediately preceding the date of the unsolicited telephone call for the sale of goods or services.

Assemblywoman Carlton moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 99.

Remarks by Assemblywoman Carlton.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 294, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 815 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 22, which is attached to and hereby made a part of this report.

KELVIN ATKINSON	MICHAEL SCHNEIDER
MAGGIE CARLTON	
JOHN ELLISON	JAMES SETTELMEYER
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA22.

SUMMARY—Establishes provisions governing ~~[medical assistants.]~~ **providers of health care.** (BDR 40-16)

AN ACT relating to ~~[public health;]~~ **providers of health care;** revising provisions governing persons authorized to possess and administer dangerous drugs; revising provisions regarding certain acts of physicians; **revising provisions governing the practice of applied behavior analysis;** 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) **Section 1** of this bill authorizes medical assistants, under the supervision of a physician or physician assistant, to possess and administer ~~[immunizations]~~ **dangerous drugs** 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 ~~[require]~~ **authorize** the Board of Medical Examiners and the State Board of Osteopathic Medicine to adopt regulations relating to the supervision of medical assistants, including ~~[: (1)]~~ limitations on the possession and administration of dangerous drugs **.** ~~[; (2) any certification, training and educational requirements relating to the administration of immunizations; and (3) the clinical tasks which may be performed by a medical assistant.]~~

Sections 6 and 12 of this bill provide that failure to supervise adequately a medical assistant is grounds for disciplinary action.

Existing law vests the Board of Psychological Examiners with jurisdiction over the licensure of behavior analysts and assistant behavior analysts and the certification of autism behavior interventionists. (NRS 641.110) Section 21 of this bill revises the requirements for licensure as a behavior analyst or assistant behavior analyst to provide that the applicant must hold current certification as a board certified behavior analyst or board certified assistant behavior analyst, as applicable, issued by the Behavior Analyst Certification Board, Inc. Section 22 of this bill expands the requirements for a certificate as an autism behavior interventionist to include the completion of a practical examination developed and approved by the

Board. Sections 23 and 24 of this bill provide that certain disciplinary actions may be taken against a person who holds a certificate issued by the Board.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.

2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.

4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

(a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

(b) Acting under the direction of the medical director of that agency or facility who works in this State.

5. Except as otherwise provided in subsection 6, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

(a) The State Board of Health in a county whose population is less than 100,000;

(b) A county board of health in a county whose population is 100,000 or more; or

(c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

6. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

7. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

8. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

9. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

➥ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

10. Any person designated by the head of a correctional institution.

11. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

12. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

13. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

14. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

15. A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

16. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

17. A veterinary technician ***or a veterinary assistant*** at the direction of his or her supervising veterinarian.

18. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards ~~[of]~~ ***for*** Immunization Practices" recommended and approved by the ~~[United States Public Health Service]~~ Advisory Committee on Immunization Practices.

19. A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

20. ~~*[If the drug or medicine is an immunization, a]*~~ ***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*** ~~*[shall]*~~ ***may adopt regulations governing the supervision of a medical assistant, including, without limitation, regulations which prescribe*** ~~*[:*~~

~~*1. Limitations]*~~ ***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. (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 ~~[shall]~~ may adopt regulations governing the supervision of a medical assistant, including, without limitation, regulations which prescribe ~~[:~~***

~~1. Limitations]~~ 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. **Chapter 641 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 18, inclusive, of this act.**

Sec. 15. *"**Assistant behavior analyst**" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and who is licensed as an assistant behavior analyst by the Board.*

Sec. 16. *"**Autism behavior interventionist**" means a person who is certified as an autism behavior interventionist by the Board.*

Sec. 17. *"**Behavior analyst**" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and who is licensed as a behavior analyst by the Board.*

Sec. 18. *"**Practice of applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior. The term includes the provision of behavioral therapy by a behavior analyst, assistant behavior analyst or autism behavior interventionist.***

Sec. 19. **NRS 641.020 is hereby amended to read as follows:**

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641.021 to 641.027, inclusive, ***and sections 15 to 18, inclusive, of this act*** and 689A.0435 have the meanings ascribed to them in those sections.

Sec. 20. **NRS 641.100 is hereby amended to read as follows:**

641.100 The Board may make and promulgate rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination, licensure and certification of applicants, the granting, refusal, revocation or suspension of licenses and certificates**,** ~~[and]~~ the practice of psychology **[.]** ***and the practice of applied behavior analysis.***

Sec. 21. **NRS 641.170 is hereby amended to read as follows:**

641.170 1. Each application for licensure as a psychologist must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. Each application for licensure as a behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a master's degree from an accredited college or university in a field of social science or special education ~~[approved by the Board.]~~ ***and holds a current certification as a Board Certified Behavior Analyst by the***

Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

3. Each application for licensure as an assistant behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a bachelor's degree from an accredited college or university in a field of social science or special education approved by the Board ~~.~~ ***and holds a current certification as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.***

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

4. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure; and

(b) Issue a written statement to the applicant of its determination.

5. The written statement issued to the applicant pursuant to subsection 4 must include:

(a) If the Board determines that the qualifications of the applicant are insufficient for licensure, a detailed explanation of the reasons for that determination.

(b) If the applicant for licensure as a psychologist has not earned a doctorate in psychology from an accredited educational institution approved by the Board and the Board determines that the doctorate-level training from an accredited educational institution is not equivalent in subject matter and extent of training, a detailed explanation of the reasons for that determination.

Sec. 22. **NRS 641.172 is hereby amended to read as follows:**

641.172 1. Each application for certification as an autism behavior interventionist must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 18 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

(e) Has completed satisfactorily a standardized practical examination developed and approved by the Board. The examination must be conducted by the applicant's supervisor, who shall make a videotape or other audio and visual recording of the applicant's performance of the examination for submission to the Board. The Board may review the recording as part of its evaluation of the applicant's qualifications.

2. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for certification as an autism behavior interventionist; and

(b) Issue a written statement to the applicant of its determination.

3. If the Board determines that the qualifications of the applicant are insufficient for certification, the written statement issued to the applicant pursuant to subsection 2 must include a detailed explanation of the reasons for that determination.

Sec. 23. **NRS 641.230 is hereby amended to read as follows:**

641.230 The Board may suspend ~~[the]~~ ***or revoke a person's*** license ~~[of]~~ ***as*** a psychologist, ***behavior analyst or assistant behavior analyst or certificate as an autism behavior interventionist,*** place ~~[a psychologist]~~ ***the person*** on probation, ~~[revoke the license of a psychologist,]~~ require remediation for ~~[a psychologist]~~ ***the person*** or take any other action specified by regulation if the Board finds by substantial evidence that the ~~[psychologist]~~ ***person*** has:

1. Been convicted of a felony relating to the practice of psychology ~~[.]~~ ***or the practice of applied behavior analysis.***

2. Been convicted of any crime or offense that reflects the inability of the ~~[psychologist]~~ ***person*** to practice psychology ***or applied behavior analysis*** with due regard for the health and safety of others.

3. Been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

4. Engaged in gross malpractice or repeated malpractice or gross negligence in the practice of psychology ~~[.]~~ ***or the practice of applied behavior analysis.***

5. Aided or abetted the practice of psychology by a person not licensed by the Board.

6. Made any fraudulent or untrue statement to the Board.

7. Violated a regulation adopted by the Board.

8. Had a license to practice psychology ***or a license or certificate to practice applied behavior analysis*** suspended or revoked or has had any other disciplinary action taken against the ~~[psychologist]~~ ***person*** by another state or territory of the United States, the District of Columbia or a foreign country, if at least one of the grounds for discipline is the same or substantially equivalent to any ground contained in this chapter.

9. Failed to report to the Board within 30 days the revocation, suspension or surrender of, or any other disciplinary action taken against, a license or certificate to practice psychology ***or applied behavior analysis*** issued to the ~~[psychologist]~~ ***person*** by another state or territory of the United States, the District of Columbia or a foreign country.

10. Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of or conspired to violate a provision of this chapter.

11. Performed or attempted to perform any professional service while impaired by alcohol, drugs or by a mental or physical illness, disorder or disease.

12. Engaged in sexual activity with a patient ~~[.]~~ ***or client.***

13. Been convicted of abuse or fraud in connection with any state or federal program which provides medical assistance.

14. Been convicted of submitting a false claim for payment to the insurer of a patient ~~[.]~~ ***or client.***

15. Operated a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility was suspended or revoked; or

(b) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➥ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 24. **NRS 641.240 is hereby amended to read as follows:**

641.240 1. If the Board, a panel of its members or a hearing officer appointed by the Board finds a person guilty in a disciplinary proceeding, it may:

(a) Administer a public reprimand.

(b) Limit the person's practice.

(c) Suspend the ***person's*** license ***or certificate*** for a period of not more than 1 year.

(d) Revoke the ***person's*** license ~~[.]~~ ***or certificate.***

(e) Impose a fine of not more than $5,000.

(f) Revoke or suspend the ***person's*** license ***or certificate*** and impose a monetary penalty.

(g) Suspend the enforcement of any penalty by placing the person on probation. The Board may revoke the probation if the person does not follow any conditions imposed.

(h) Require the person to submit to the supervision of or counseling or treatment by a person designated by the Board. The person named in the complaint is responsible for any expense incurred.

(i) Impose and modify any conditions of probation for the protection of the public or the rehabilitation of the probationer.

(j) Require the person to pay for the costs of remediation or restitution.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

~~[Sec. 14.]~~ ***Sec. 25.*** 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 that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 294.

Remarks by Assemblywoman Carlton.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 168, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 881 of the Assembly be concurred in.

MAGGIE CARLTON	SHIRLEY BREEDEN
IRENE BUSTAMANTE ADAMS	ALLISON COPENING
	JAMES SETTELMEYER
Assembly Conference Committee	*Senate Conference Committee*

Assemblywoman Carlton moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 168.

Remarks by Assemblywoman Carlton.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 525, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 878 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 20, which is attached to and hereby made a part of this report.

MAGGIE CARLTON	MARK MANENDO
JOSEPH HOGAN	JOHN LEE
TOM GRADY	DEAN RHOADS
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA20.

SUMMARY— ~~[Requires the establishment of the Wildlife Trust Fund.]~~ **Makes various changes relating to the financial management of the Department of Wildlife.** (BDR 45-1213)

AN ACT relating to wildlife; requiring the Department of Wildlife to establish the Wildlife Trust Fund; authorizing the Department to accept any gift, donation, bequest or devise from any private source for the Wildlife Trust Fund; requiring the Director to report income and expenditures from the Wildlife Trust Fund to the Chief of the Budget Division of the Department of Administration, the Interim Finance Committee and the Board of Wildlife Commissioners; **designating the Wildlife Account and the Wildlife Obligated Reserve Account as the Wildlife Fund Account;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This]~~ **Section 1 of this** bill requires the Department of Wildlife to establish the Wildlife Trust Fund for the purposes of receiving any gift, donation, bequest or devise from any private source for the Wildlife Trust Fund. The money in the Wildlife Trust Fund must be used either for the specified purpose of the donor who donated the money or, if the donor specified no purpose, then in the sound discretion of the Director of the Department. ~~[This bill]~~ **Section 1** further establishes that the money in the Wildlife Trust Fund is private money and exempts the expenditure of money in the Wildlife Trust Fund from the provisions of the State Purchasing Act. Finally, ~~[this bill]~~ **section 1** requires the Director to report the income and expenditures of the Wildlife Trust Fund to the Chief of the Budget Division of the Department of Administration, the Interim Finance Committee and the Board of Wildlife Commissioners.

Existing law establishes the Wildlife Account, into which the majority of the money received by the Department of Wildlife must be deposited. (NRS 501.356) Existing law also creates the Wildlife Obligated Reserve Account, into which certain other money must be deposited by the Department of Wildlife. (NRS 502.242) Sections 1.5-19 of this bill combine the Wildlife Account and the Wildlife Obligated Reserve Account into one account designated the Wildlife Fund Account.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 501 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall establish the Wildlife Trust Fund. The Department may accept any gift, donation, bequest or devise from any private source for deposit in the Wildlife Trust Fund. Any money received

is private money and not state money. All money must be accounted for in the Wildlife Trust Fund.

2. All of the money in the Wildlife Trust Fund must be deposited in a financial institution to draw interest or to be expended, invested and reinvested pursuant to the specific instructions of the donor, or if no such specific instructions exist, in the sound discretion of the Director. The provisions of NRS 356.011 apply to any accounts in financial institutions maintained pursuant to this section.

3. The money in the Wildlife Trust Fund must be budgeted and expended, within any limitations which may have been specified by particular donors, at the discretion of the Director. The Director may authorize independent contractors that may be funded in whole or in part from the money in the Wildlife Trust Fund.

4. The Director or the Director's designee shall submit semiannually to the Interim Finance Committee and the Commission a report concerning the investment and expenditure of the money in the Wildlife Trust Fund in such form and detail as the Interim Finance Committee determines is necessary.

5. A separate statement concerning the anticipated amount and proposed expenditures of the money in the Wildlife Trust Fund must be submitted to the Chief of the Budget Division of the Department of Administration for his or her information at the same time and for the same fiscal years as the requested budget of the Department submitted pursuant to NRS 353.210. The statement must be attached to the requested budget for the Department when the requested budget is submitted to the Fiscal Analysis Division of the Legislative Counsel Bureau pursuant to NRS 353.211.

6. The provisions of chapter 333 of NRS do not apply to the expenditure of money in the Wildlife Trust Fund.

Sec. 1.1. **NRS 501.179 is hereby amended to read as follows:**

501.179 1. Members of the Commission are entitled to receive a salary of not more than $80 per day, as fixed by the Commission, while performing official duties for the Commission.

2. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

3. Compensation and expenses must be paid from the Wildlife ***Fund*** Account within the State General Fund.

Sec. 1.3. **NRS 501.320 is hereby amended to read as follows:**

501.320 1. Annually, not later than May 1, each board shall prepare a budget for the period ending June 30 of the following year, setting forth in detail its proposed expenditures for carrying out its duties as specified in this

title within its county, and submit the budget to the Commission accompanied by a statement of the previous year's expenditures, certified by the county auditor.

2. The Commission shall examine the budget in conjunction with the Director or a person designated by the Director, and may increase, decrease, alter or amend the budget.

3. Upon approval of the budget, the Department shall transmit a copy of the approved budget to the board, and at the same time withdraw from the Wildlife ***Fund*** Account within the State General Fund and transmit to the board the money required under the approved budget for disposition by the board in accordance with the approved budget. All money so received must be placed in the fund for the advisory board.

Sec. 1.5. **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.

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]~~ ***Fund*** 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. 1.7. **NRS 501.343 is hereby amended to read as follows:**

501.343 The Department may:

1. Collect and disseminate, throughout the State, information calculated to educate and benefit the people of the State regarding wildlife and boating, and information pertaining to any program administered by the Department.

2. Publish wildlife journals and other official publications, for which a specific charge may be made, such charge to be determined by the Commission, with the proceeds to be deposited in the Wildlife ***Fund*** Account within the State General Fund. No charge may be made for any publication required by a regulation of the Commission.

Sec. 1.9. **NRS 501.346 is hereby amended to read as follows:**

501.346 1. The Department may charge fees for advertising:

(a) In printed materials prepared by the Department; and

(b) On a website on the Internet or its successor that is maintained by the Department.

2. Any money collected by the Department, pursuant to subsection 1 must be:

(a) Deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund; and

(b) Used to pay the expenses of the Department, including, without limitation, expenses incurred in the development, production and distribution of:

(1) Printed materials prepared by the Department;

(2) Materials used by the Department on the website maintained by the Department; and

(3) Any informational and educational materials provided by the Department for the purposes described in subsection 1 of NRS 501.343.

Sec. 2. NRS 501.356 is hereby amended to read as follows:

501.356 1. Money received by the Department from:

(a) The sale of licenses;

(b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;

(c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;

(d) Appropriations made by the Legislature; and

(e) All other sources, ***including, without limitation, the Federal Government,*** except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575 ~~*[,]*~~ or in the ~~**[**Trout Management Account pursuant to NRS 502.327**]**~~ **[**,**]** ~~*[or in the]*~~ ***Wildlife Trust Fund pursuant to section 1 of this act,***

➥ must be deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund.

2. The interest and income earned on the money in the Wildlife ***Fund*** 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 ***Fund*** 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 ***Fund*** Account pursuant to the provisions of

this title and any matching money received by the Department from any source must be accounted for separately and must be used:

(a) Only for the management of wildlife; and

(b) If the fee is for the sale or issuance of a license, permit or tag other than a tag specified in subsection 5 or 6 of NRS 502.250, under the guidance of the Commission pursuant to subsection 2 of NRS 501.181.

Sec. 3. **NRS 501.359 is hereby amended to read as follows:**

501.359 1. The Wildlife Imprest Account in the amount of $15,000 is hereby created for the use of the Department, subject to the following conditions:

(a) The money must be deposited in a bank or credit union qualified to receive deposits of public money, except that $500 must be kept in the custody of an employee designated by the Director for immediate use for purposes set forth in this section.

(b) The Account must be replenished periodically from the Wildlife ***Fund*** Account in the State General Fund upon approval of expenditures as required by law and submission of vouchers or other documents to indicate payment as may be prescribed.

2. The Wildlife Imprest Account may be used to pay for postage, C.O.D. packages, travel or other minor expenses which are proper as claims for payment from the Wildlife ***Fund*** Account in the State General Fund.

3. The Wildlife Imprest Account may be used to provide money to employees of the Department for travel expenses and subsistence allowances arising out of their official duties or employment. All advances constitute a lien in favor of the Department upon the accrued wages of the requesting employee in an amount equal to the money advanced, but the Director may advance more than the amount of the accrued wages of the employee. Upon the return of the employee, the employee is entitled to receive money for any authorized expenses and subsistence in excess of the amount advanced.

Sec. 4. **NRS 501.361 is hereby amended to read as follows:**

501.361 A Petty Cash Account in the amount of $1,000 for the payment of minor expenses of the Department is hereby created. The Account must be kept in the custody of an employee designated by the Director and must be replenished periodically from the Wildlife ***Fund*** Account in the State General Fund upon approval of expenditures as required by law and submission of vouchers or other documents to indicate payment as may be prescribed.

Sec. 5. **NRS 501.3855 is hereby amended to read as follows:**

501.3855 1. In addition to the penalties provided for the violation of any of the provisions of this title, every person who unlawfully kills or possesses a big game mammal, bobcat, swan or eagle is liable for a civil penalty of not less than $250 nor more than $5,000.

2. For the unlawful killing or possession of fish or wildlife not included in subsection 1, the court may order the defendant to pay a civil penalty of not less than $25 nor more than $1,000.

3. For hunting, fishing or trapping without a valid license, tag or permit, the court may order the defendant to pay a civil penalty of not less than $50 nor more than $250.

4. Every court, before whom a defendant is convicted of unlawfully killing or possessing any wildlife, shall order the defendant to pay the civil penalty in the amount stated in this section for each mammal, bird or fish unlawfully killed or possessed. The court shall fix the manner and time of payment.

5. The Department may attempt to collect all penalties and installments that are in default in any manner provided by law for the enforcement of a judgment.

6. If a person who is ordered to pay a civil penalty pursuant to this section fails to do so within 90 days after the date set forth in the order, the Department may suspend, revoke, or refuse to issue or renew any license, tag, permit, certificate or other document or privilege otherwise available to the person pursuant to this title or chapter 488 of NRS.

7. Each court that receives money pursuant to the provisions of this section shall forthwith remit the money to the Department which shall deposit the money with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund.

Sec. 6. **NRS 501.389 is hereby amended to read as follows:**

501.389 1. Except for property described in NRS 501.3857, equipment:

(a) Seized as evidence in accordance with NRS 501.375; and

(b) Not recovered by the owner within 1 year after it is no longer needed for evidentiary purposes,

➥ becomes the property of the Department.

2. The Department may:

(a) Sell the equipment in accordance with the regulations adopted pursuant to subsection 5 of NRS 333.220;

(b) Donate equipment that is not dangerous to nonprofit organizations which benefit children;

(c) Donate equipment that is not dangerous to children from low-income families who attend fishing clinics sponsored by the Department; or

(d) Retain the equipment for authorized use by the Department.

➥ All money received from the sale of equipment must be deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund.

3. Any person of lawful age and lawfully entitled to reside in the United States may purchase the equipment, whether a prior owner or not.

Sec. 7. **NRS 502.148 is hereby amended to read as follows:**

502.148 1. Except as otherwise provided in this subsection, any person who wishes to apply for a restricted nonresident deer tag pursuant to NRS 502.147 must complete an application on a form prescribed and furnished by the Department. A licensed master guide may complete the application for an applicant. The application must be signed by the applicant and the master guide who will be responsible for conducting the restricted nonresident deer hunt.

2. The application must be accompanied by a fee for the tag of $300, plus any other fees which the Department may require. The Commission shall establish the time limits and acceptable methods for submitting such applications to the Department.

3. Any application for a restricted nonresident deer tag which contains an error or omission must be rejected and the fee for the tag returned to the applicant.

4. A person who is issued a restricted nonresident deer tag is not eligible to apply for any other deer tag issued in this State for the same hunting season as that restricted nonresident deer hunt.

5. All fees collected pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund.

Sec. 8. **NRS 502.219 is hereby amended to read as follows:**

502.219 1. The Commission may establish a program for the issuance of additional big game tags each year to be known as "Dream Tags." If the Commission establishes such a program, the program must provide:

(a) For the issuance of Dream Tags to either a resident or nonresident of this State;

(b) For the issuance of one Dream Tag for each species of big game for which 50 or more tags were available under the quota established for the species by the Commission during the previous year; and

(c) For the sale of Dream Tags to a nonprofit organization pursuant to this section.

2. The Commission may adopt regulations establishing such other provisions concerning Dream Tags as the Commission determines reasonable or necessary in carrying out the program.

3. A nonprofit organization established through the Community Foundation of Western Nevada which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and which has as its principal purpose the preservation, protection, management or restoration of wildlife and its habitat may purchase such Dream Tags from the Department as are authorized by the Commission, at prices established by the Commission, subject to the following conditions:

(a) The nonprofit organization must agree to award the Dream Tags by raffle, with unlimited chances to be sold for $5 each to persons who purchase a resource enhancement stamp pursuant to NRS 502.222.

(b) The nonprofit organization must agree to enter into a contract with a private entity that is approved by the Department which requires that the private entity agree to act as the agent of the nonprofit organization to sell chances to win Dream Tags, conduct any required drawing for Dream Tags and issue Dream Tags. For the purposes of this paragraph, a private entity that has entered into a contract with the Department pursuant to NRS 502.175 to conduct a drawing and to award and issue tags or permits as established by the Commission shall be deemed to be approved by the Department.

(c) All money received by the nonprofit organization from the proceeds of the Dream Tag raffle, less the cost of the Dream Tags purchased by the nonprofit organization and any administrative costs charged by the Community Foundation of Western Nevada, must be used for the preservation, protection, management or restoration of game and its habitat, as determined by the Advisory Board on Dream Tags created by NRS 502.225.

4. All money received by the Department for Dream Tags pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund.

5. The nonprofit organization shall, on or before February 1 of each year, report to the Commission and the Interim Finance Committee concerning the Dream Tag program, including, without limitation:

(a) The number of Dream Tags issued during the immediately preceding calendar year;

(b) The total amount of money paid to the Department for Dream Tags during the immediately preceding calendar year;

(c) The total amount of money received by the nonprofit organization from the proceeds of the Dream Tag raffle, the amount of such money expended by the nonprofit organization and a description of each project for which the money was spent; and

(d) Any recommendations concerning the continuation of the program or necessary legislation.

6. As used in this section, “big game tag” means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 9. **NRS 502.222 is hereby amended to read as follows:**

502.222 1. To be eligible to participate in the Dream Tag raffle, a person must purchase a resource enhancement stamp.

2. Resource enhancement stamps must be sold for a fee of $10 each by the Department and by persons authorized by the Department to sell the stamps. All money received by the Department for resource enhancement stamps pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund.

3. The Department shall determine the form of the stamps.

Sec. 10. **NRS 502.242 is hereby amended to read as follows:**

502.242 1. In addition to any fee charged and collected for an annual hunting, trapping, fishing or combined hunting and fishing license pursuant to NRS 502.240, a habitat conservation fee of $3 must be paid.

2. ~~[The Wildlife Obligated Reserve Account is hereby created in the State General Fund.]~~ Revenue from the habitat conservation fee must be accounted for separately, deposited with the State Treasurer for credit to the Wildlife ~~[Obligated Reserve]~~ ***Fund*** Account and, except as otherwise provided in NRS 502.294 and 502.310, used by the Department for the purposes of wildlife habitat rehabilitation and restoration. ~~[The interest and income earned on the money in the Wildlife Obligated Reserve Account, after deducting any applicable charges, must be credited to the Account.]~~

3. The money in the Wildlife ~~[Obligated Reserve]~~ ***Fund*** Account remains in the Account and does not revert to the State General Fund at the end of any fiscal year.

Sec. 11. **NRS 502.250 is hereby amended to read as follows:**

502.250 1. The amount of the fee that must be charged for the following tags is:

Resident deer tag	$30
Resident antelope tag	60
Resident elk tag	120
Resident bighorn sheep tag	$120
Resident mountain goat tag	120
Resident mountain lion tag	25
Nonresident deer tag	240
Nonresident antelope tag	300
Nonresident antlered elk tag	1,200
Nonresident antlerless elk tag	500
Nonresident bighorn sheep tag	1,200
Nonresident mountain goat tag	1,200
Nonresident mountain lion tag	100

2. The amount of the fee for other resident or nonresident big game tags must not exceed the highest fee for a resident or nonresident big game tag established pursuant to this section.

3. The amount of the fee for a tag determined to be necessary by the Commission for other species pursuant to NRS 502.130 must not exceed the

highest fee for a resident or nonresident tag established pursuant to this section.

4. A fee not to exceed $10 may be charged for processing an application for a game species or permit other than an application for an elk. A fee of not less than $5 but not more than $15 must be charged for processing an application for an elk, $5 of which must be deposited with the State Treasurer for credit to the Wildlife ~~[Obligated Reserve]~~ ***Fund*** Account in the State General Fund and used for the prevention and mitigation of damage caused by elk or game mammals not native to this State. A fee of not less than $15 and not more than $50 must be charged for processing an application for a Silver State Tag.

5. The Commission may accept sealed bids for, or award through an auction or a Silver State Tag Drawing, or any combination thereof, not more than 15 big game tags and not more than 5 wild turkey tags each year. To reimburse the Department for the cost of managing wildlife and administering and conducting the bid, auction or Silver State Tag Drawing, not more than 18 percent of the total amount of money received from the bid, auction or Silver State Tag Drawing may be deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund. Any amount of money received from the bid, auction or Silver State Tag Drawing that is not so deposited must be deposited with the State Treasurer for credit to the Wildlife Heritage Trust Account in the State General Fund in accordance with the provisions of NRS 501.3575.

6. The Commission may by regulation establish an additional drawing for big game tags, which may be entitled the Partnership in Wildlife Drawing. To reimburse the Department for the cost of managing wildlife and administering and conducting the drawing, not more than 18 percent of the total amount of money received from the drawing may be deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund. Except as otherwise provided by regulations adopted by the Commission pursuant to subsection 7, the money received by the Department from applicants in the drawing who are not awarded big game tags must be deposited with the State Treasurer for credit to the Wildlife Heritage Trust Account in accordance with the provisions of NRS 501.3575.

7. The Commission may adopt regulations which authorize the return of all or a portion of any fee collected from a person pursuant to the provisions of this section.

Sec. 12. **NRS 502.253 is hereby amended to read as follows:**

502.253 1. In addition to any fee charged and collected pursuant to NRS 502.250, a fee of $3 must be charged for processing each application for a game tag, the revenue from which must be accounted for separately,

deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund and used by the Department for costs related to:

(a) Programs for the management and control of injurious predatory wildlife;

(b) Wildlife management activities relating to the protection of nonpredatory game animals, sensitive wildlife species and related wildlife habitat;

(c) Conducting research, as needed, to determine successful techniques for managing and controlling predatory wildlife, including studies necessary to ensure effective programs for the management and control of injurious predatory wildlife; and

(d) Programs for the education of the general public concerning the management and control of predatory wildlife.

2. The Department of Wildlife is hereby authorized to expend a portion of the money collected pursuant to subsection 1 to enable the State Department of Agriculture to develop and carry out the programs described in subsection 1.

3. Any program developed or wildlife management activity or research conducted pursuant to this section must be developed or conducted under the guidance of the Commission pursuant to subsection 2 of NRS 501.181.

4. The money in the Wildlife ***Fund*** Account remains in the Account and does not revert to the State General Fund at the end of any fiscal year.

Sec. 13. **NRS 502.294 is hereby amended to read as follows:**

502.294 All money received pursuant to NRS 502.292 must be deposited with the State Treasurer for credit to the Wildlife ~~[Obligated Reserve]~~ ***Fund*** Account in the State General Fund. The Department shall maintain separate accounting records for the receipt and expenditure of that money. An amount not to exceed 10 percent of that money may be used to reimburse the Department for the cost of administering the program of documentation. This amount is in addition to compensation allowed persons authorized to issue and sell licenses.

Sec. 14. **NRS 502.310 is hereby amended to read as follows:**

502.310 All money received pursuant to NRS 502.300 must be deposited with the State Treasurer for credit to the Wildlife ~~[Obligated Reserve]~~ ***Fund*** Account in the State General Fund. The Department shall maintain separate accounting records for the receipt and expenditure of that money. An amount not to exceed 10 percent of that money may be used to reimburse the Department for the cost of administering the state duck stamp programs. This amount is in addition to compensation allowed persons authorized to issue and sell licenses.

Sec. 15. **NRS 502.410 is hereby amended to read as follows:**

502.410 1. Any money received by the Department pursuant to NRS 502.400 must be deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund.

2. The Department:

(a) Shall maintain separate accounting records for the receipt and expenditure of any money pursuant to this section or NRS 502.400; and

(b) Must use the money to operate and manage the Carson Lake Wildlife Management Area.

Sec. 16. **NRS 504.155 is hereby amended to read as follows:**

504.155 All gifts, grants, fees and appropriations of money received by the Department for the prevention and mitigation of damage caused by elk or game mammals not native to this State, and the interest and income earned on the money, less any applicable charges, must be accounted for separately within the Wildlife ***Fund*** Account and may only be disbursed as provided in the regulations adopted pursuant to NRS 504.165.

Sec. 17. **NRS 321.385 is hereby amended to read as follows:**

321.385 The State Land Registrar, after consultation with the Division of Forestry of the State Department of Conservation and Natural Resources, may:

1. Sell timber from any land owned by the State of Nevada which is not assigned to the Department of Wildlife.

2. At the request of the Director of the Department of Wildlife, sell timber from any land owned by the State of Nevada which is assigned to the Department of Wildlife. Revenues from the sale of such timber must be deposited with the State Treasurer for credit to the Wildlife ***Fund*** Account in the State General Fund.

Sec. 18. **NRS 365.535 is hereby amended to read as follows:**

365.535 1. It is declared to be the policy of the State of Nevada to apply the tax on motor vehicle fuel paid on fuel used in watercraft for recreational purposes during each calendar year, which is hereby declared to be not refundable to the consumer, for the:

(a) Improvement of boating and the improvement, operation and maintenance of other outdoor recreational facilities located in any state park that includes a body of water used for recreational purposes; and

(b) Payment of the costs incurred, in part, for the administration and enforcement of the provisions of chapter 488 of NRS.

2. The amount of excise taxes paid on all motor vehicle fuel used in watercraft for recreational purposes must be determined annually by the Department by use of the following formula:

(a) Multiplying the total boats with motors registered the previous calendar year, pursuant to provisions of chapter 488 of NRS, times 220.76 gallons average fuel purchased per boat;

(b) Adding 566,771 gallons of fuel purchased by out-of-state boaters as determined through a study conducted during 1969-1970 by the Division of Agricultural and Resource Economics, Max C. Fleischmann College of Agriculture, University of Nevada, Reno; and

(c) Multiplying the total gallons determined by adding the total obtained under paragraph (a) to the figure in paragraph (b) times the rate of tax, per gallon, imposed on motor vehicle fuel used in watercraft for recreational purposes, less the percentage of the tax authorized to be deducted by the supplier pursuant to NRS 365.330.

3. The Department of Wildlife shall submit annually to the Department, on or before April 1, the number of boats with motors registered in the previous calendar year. On or before June 1, the Department, using that data, shall compute the amount of excise taxes paid on all motor vehicle fuel used in watercraft for recreational purposes based on the formula set forth in subsection 2, and shall certify the ratio for apportionment and distribution, in writing, to the Department of Wildlife and to the Division of State Parks of the State Department of Conservation and Natural Resources for the next fiscal year.

4. In each fiscal year, the State Treasurer shall, upon receipt of the tax money from the Department collected pursuant to the provisions of NRS 365.175 to 365.190, inclusive, allocate the amount determined pursuant to subsection 2, in proportions directed by the Legislature, to:

(a) The Wildlife ***Fund*** Account in the State General Fund. This money may be expended only for the administration and enforcement of the provisions of chapter 488 of NRS and for the improvement, operation and maintenance of boating facilities and other outdoor recreational facilities associated with boating. Any money received in excess of the amount authorized by the Legislature to be expended for such purposes must be retained in the Wildlife ***Fund*** Account.

(b) The Division of State Parks of the State Department of Conservation and Natural Resources. Such money may be expended only as authorized by the Legislature for the improvement, operation and maintenance of boating facilities and other outdoor recreational facilities located in any state park that includes a body of water used for recreational purposes.

Sec. 19. **NRS 488.075 is hereby amended to read as follows:**

488.075 1. The owner of each motorboat requiring numbering by this State shall file an application for a number and for a certificate of ownership with the Department on forms approved by it accompanied by:

(a) Proof of payment of Nevada sales or use tax as evidenced by proof of sale by a Nevada dealer or by a certificate of use tax paid issued by the Department of Taxation, or by proof of exemption from those taxes as provided in NRS 372.320.

(b) Such evidence of ownership as the Department may require.

➥ The Department shall not issue a number, a certificate of number or a certificate of ownership until this evidence is presented to it.

2. The application must be signed by the owner of the motorboat and must be accompanied by a fee of $20 for the certificate of ownership and a fee according to the following schedule as determined by the straight line length which is measured from the tip of the bow to the back of the transom of the motorboat:

Less than 13 feet	$20
13 feet or more but less than 18 feet	25
18 feet or more but less than 22 feet	40
22 feet or more but less than 26 feet	55
26 feet or more but less than 31 feet	75
31 feet or more	100

Except as otherwise provided in this subsection, all fees received by the Department under the provisions of this chapter must be deposited in the Wildlife ***Fund*** Account in the State General Fund and may be expended only for the administration and enforcement of the provisions of this chapter. On or before December 31 of each year, the Department shall deposit with the respective county school districts 50 percent of each fee collected according to the motorboat's length for every motorboat registered from their respective counties. Upon receipt of the application in approved form, the Department shall enter the application upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat, a certificate of ownership stating the same information and the name and address of the registered owner and the legal owner.

3. A certificate of number may be renewed each year by the purchase of a validation decal. The fee for a validation decal is determined by the straight line length of the motorboat and is equivalent to the fee set forth in the schedule provided in subsection 2. The amount of the fee for issuing a duplicate validation decal is $20.

4. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by regulations of the Commission in order that the number may be clearly visible. The number must be maintained in legible condition.

5. The certificate of number must be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation.

6. The Commission shall provide by regulation for the issuance of numbers to manufacturers and dealers which may be used interchangeably upon motorboats operated by the manufacturers and dealers in connection with the demonstration, sale or exchange of those motorboats. The amount of the fee for each such a number is $20.

Sec. 20. **NRS 502.327 is hereby repealed.**

Sec. 21. **As soon as practicable after July 1, 2011, any money remaining in the Trout Management Account established by NRS 502.327 which has not been committed for expenditure before that date must be deposited into the Wildlife Fund Account pursuant to NRS 501.356, as amended by section 2 of this act.**

Sec. 22. **Notwithstanding any amendatory provision of this act to the contrary, during the biennium beginning on July 1, 2011, and ending on June 30, 2013, if any money is appropriated or authorized for an expenditure or use by the Department of Wildlife which is inconsistent with the amendatory provisions of this act, the Department may expend or use the money in accordance with the purpose for which the money was appropriated or authorized for expenditure or use.**

Sec. 23. **1.** This **section and sections 1 to 14, inclusive, and 16 to 22, inclusive, of this** act ~~[becomes]~~ **become** effective on July 1, 2011.

2. Section 15 of this act becomes effective upon conveyance of the Carson Lake Pasture to the State of Nevada in accordance with chapter 209, Statutes of Nevada 1993, at page 447.

3. Section 22 of this act expires by limitation on July 1, 2013.

TEXT OF REPEALED SECTION

502.327 Trout stamps: Deposit of fees in Trout Management Account; accounting records; use of money in Account.

1. All money received pursuant to NRS 502.326 must be deposited with the State Treasurer for credit to the Trout Management Account, which is hereby established in the State General Fund.

2. The interest and income earned on the money in the Trout Management Account, after deducting any applicable charges, must be credited to the Account.

3. The Department shall:

(a) Maintain separate accounting records for the receipt of money pursuant to NRS 502.326 and the expenditure of that money.

(b) Administer the Trout Management Account. The Department may use money in the Account only for the protection, propagation and management of trout in this State and for any bonded indebtedness incurred therefor.

Assemblywoman Carlton moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 525.

Remarks by Assemblywoman Carlton.

Motion carried by a constitutional majority.

Assembly Bill No. 351.

The following Senate amendment was read:

Amendment No. 737.

AN ACT relating to motor carriers; authorizing operators of taxicabs and operators of limousines to accept credit cards and debit cards for payment of rates, fares and charges; authorizing the prescribing of maximum fees that may be charged to customers of taxicabs and limousines for the convenience of payment by a credit card or debit card; prohibiting issuers of credit cards and debit cards and certain other persons from prohibiting the collection of the convenience fees; **requiring the Taxicab Authority to compile a report for the Legislature concerning the costs of purchasing, installing and maintaining equipment to accept such payments; requiring a portion of the fee paid in certain counties to be used for certain transportation services;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Transportation Authority regulates common motor carriers of passengers, which include limousines and, in counties with a population of less than 400,000 (currently all counties other than Clark County), taxicabs. (NRS 706.166) The Taxicab Authority regulates taxicabs in counties with a population of 400,000 or more (currently Clark County). (NRS 706.8818)

Sections 2 and 3 of this bill authorize taxicab and limousine operators to accept payment by a credit card or debit card. **Section 2** authorizes the Nevada Transportation Authority to prescribe by regulation ~~[or order]~~ the maximum fees that a taxicab motor carrier or limousine operator within its jurisdiction may charge for the convenience of paying by using a credit card or debit card. **Section 3** authorizes the Taxicab Authority to prescribe by regulation ~~[or order]~~ the maximum fees that a certificate holder in a county whose population is 400,000 or more may charge for the convenience of paying by using a credit card or debit card. **Sections 2 and 3** also **set forth the manner in which the amount of the fee that may be charged will be determined and** prohibit an issuer of a credit card or debit card or certain other persons who facilitate the acceptance of a credit card or debit card from prohibiting the collection by a taxicab or limousine operator of the convenience fee.

Section 11 of this bill requires each taxicab motor carrier in a county whose population is 700,000 or more (currently Clark County) to transmit a report to the Taxicab Authority on or before January 1, 2012, July 1, 2012, January 1, 2013, and July 1, 2013, which sets out the actual costs that the taxicab motor carrier incurred during the immediately

preceding 6 months to purchase, install and maintain the equipment used to accept credit cards or debit cards. Section 11 requires the Taxicab Authority to compile the information contained in the reports within 30 days of receipt and transmit the information to the Director of the Legislative Counsel Bureau for distribution to the Legislature.

Section 12 of this bill requires each taxicab motor carrier in a county whose population is 700,000 or more (currently Clark County) that charges a fee to customers for using a credit card or debit card to transmit a portion of the fee so collected to the Taxicab Authority on or before January 1, 2012, July 1, 2012, and January 1, 2103. The Taxicab Authority is required to determine the amount to be transmitted on a fair and equitable basis to ensure that the Taxicab Authority is able to transmit $400,000 on or before January 15, 2012, July 15, 2012, and January 15, 2013, to the Aging and Disability Services Division of the Department of Health and Human Services for expenditure on transportation services in Clark County.

Section 13 of this bill requires the adoption of any regulations by the Taxicab Authority and the Nevada Transportation Authority necessary to implement the bill by October 1, 2011.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. A taxicab motor carrier or an operator of a limousine may enter into a contract with an issuer of credit cards and debit cards to provide for the acceptance of credit cards or debit cards by the taxicab motor carrier or the operator of a limousine for the payment of rates, fares and charges owed to the taxicab motor carrier or the operator of a limousine.***

2. The Authority may prescribe by regulation ~~*[or order]*~~ ***the maximum fee that a taxicab motor carrier or an operator of a limousine may charge a customer for the convenience of using a credit card or debit card to make payment to the taxicab motor carrier or the operator of a limousine.*** ~~*[In prescribing such fees, the]*~~ ***The Authority*** ~~*[may consider the expenses incurred by]*~~ ***shall establish the fee in an amount that allows the taxicab motor carrier or the operator of a limousine to recover the costs incurred in accepting payment by a credit card or debit card . [,]*** ~~*[,]*~~ ***Only the costs associated with accepting payment by a credit card or debit card may be included in establishing the amount of the fee, including, without limitation:***

(a) Costs of required equipment and its installation;

(b) Administrative costs of processing credit card or debit card transactions; and

(c) Fees paid to issuers of credit cards or debit cards.

3. An issuer shall not, by contract or otherwise:

(a) Prohibit a taxicab motor carrier or an operator of a limousine from charging and collecting a fee authorized pursuant to subsection 2; or

(b) Require a taxicab motor carrier or an operator of a limousine to waive the right to charge and collect a fee authorized pursuant to subsection 2.

4. As used in this section, "issuer" means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:

(a) Issues a credit card or debit card; or

(b) Enters into a contract with a taxicab motor carrier, an operator of a limousine or other person to enable or facilitate the acceptance of a credit card or debit card.

Sec. 3. ***1. A certificate holder may enter into a contract with an issuer of credit cards and debit cards to provide for the acceptance of credit cards or debit cards by the certificate holder for the payment of rates, fares and charges owed to the certificate holder.***

2. The Taxicab Authority may prescribe by regulation ~~[or order]~~ the maximum fee that a certificate holder may charge a customer for the convenience of using a credit card or debit card to make payment to the certificate holder. ~~[In prescribing such fees, the]~~ The Taxicab Authority ~~[may consider the expenses incurred by]~~ shall establish the fee in an amount that allows the certificate holder to recover the costs incurred in accepting payment by a credit card or debit card . ~~[.]~~ Only the costs associated with accepting payment by a credit card or debit card may be included in establishing the amount of the fee, including, without limitation:

(a) Costs of required equipment and its installation;

(b) Administrative costs of processing credit card or debit card transactions; and

(c) Fees paid to issuers of credit cards or debit cards.

3. An issuer shall not, by contract or otherwise:

(a) Prohibit a certificate holder from charging and collecting a fee authorized pursuant to subsection 2; or

(b) Require a certificate holder to waive the right to charge and collect a fee authorized pursuant to subsection 2.

4. As used in this section, "issuer" means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:

(a) Issues a credit card or debit card; or

(b) Enters into a contract with a certificate holder or other person to enable or facilitate the acceptance of a credit card or debit card.

Sec. 4. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ***and section 2 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, ***and section 2 of this act*** apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, ***and section 2 of this act*** or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~[;]~~ ***, and section 2 of this act;***

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~[;]~~ ***, and section 2 of this act;***

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~[;]~~ ***, and section 2 of this act;***

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

➥ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

➥ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than $500 nor more than $1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of $1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 6. NRS 706.881 is hereby amended to read as follows:

706.881 1. The provisions of NRS 706.8811 to 706.885, inclusive, ***and section 3 of this act,*** apply to any county:

(a) Whose population is 400,000 or more; or

(b) For whom regulation by the Taxicab Authority is not required, if the board of county commissioners of the county has enacted an ordinance approving the inclusion of the county within the jurisdiction of the Taxicab Authority.

2. Upon receipt of a certified copy of such an ordinance from a county for whom regulation by the Taxicab Authority is not required, the Taxicab Authority shall exercise its regulatory authority pursuant to NRS 706.8811 to 706.885, inclusive, ***and section 3 of this act,*** within that county.

3. Within any such county, the provisions of this chapter which confer regulatory authority over taxicab motor carriers upon the Nevada Transportation Authority do not apply.

Sec. 7. NRS 706.8811 is hereby amended to read as follows:

706.8811 As used in NRS 706.881 to 706.885, inclusive, ***and section 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 706.8812 to 706.8817, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 706.885 is hereby amended to read as follows:

706.885 1. Any person who knowingly makes or causes to be made, either directly or indirectly, a false statement on an application, account or other statement required by the Taxicab Authority or the Administrator or who violates any of the provisions of NRS 706.881 to 706.885, inclusive, ***and section 3 of this act*** is guilty of a misdemeanor.

2. The Taxicab Authority or Administrator may at any time, for good cause shown and upon at least 5 days' notice to the grantee of any certificate or driver's permit, and after a hearing unless waived by the grantee, penalize the grantee of a certificate to a maximum amount of $15,000 or penalize the grantee of a driver's permit to a maximum amount of $500 or suspend or revoke the certificate or driver's permit granted by the Taxicab Authority or Administrator, respectively, for:

(a) Any violation of any provision of NRS 706.881 to 706.885, inclusive, ***and section 3 of this act*** or any regulation of the Taxicab Authority or Administrator.

(b) Knowingly permitting or requiring any employee to violate any provision of NRS 706.881 to 706.885, inclusive, ***and section 3 of this act*** or any regulation of the Taxicab Authority or Administrator.

➥ If a penalty is imposed on the grantee of a certificate pursuant to this section, the Taxicab Authority or Administrator may require the grantee to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. When a driver or certificate holder fails to appear at the time and place stated in the notice for the hearing, the Administrator shall enter a finding of

default. Upon a finding of default, the Administrator may suspend or revoke the license, permit or certificate of the person who failed to appear and impose the penalties provided in this chapter. For good cause shown, the Administrator may set aside a finding of default and proceed with the hearing.

4. Any person who operates or permits a taxicab to be operated in passenger service without a certificate of public convenience and necessity issued pursuant to NRS 706.8827, is guilty of a gross misdemeanor. If a law enforcement officer witnesses a violation of this subsection, the law enforcement officer may cause the vehicle to be towed immediately from the scene.

5. The conviction of a person pursuant to subsection 1 does not bar the Taxicab Authority or Administrator from suspending or revoking any certificate, permit or license of the person convicted. The imposition of a fine or suspension or revocation of any certificate, permit or license by the Taxicab Authority or Administrator does not operate as a defense in any proceeding brought under subsection 1.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. **1. Except as otherwise provided by subsection 2, on or before January 1, 2012, July 1, 2012, January 1, 2013, and July 1, 2013, each taxicab motor carrier in a county whose population is 700,000 or more shall transmit a report to the Taxicab Authority which sets out the actual costs that the taxicab motor carrier incurred during the immediately preceding 6 months to purchase, install and maintain the equipment used to provide for the acceptance of credit cards or debit cards for the payment of rates, fares and other charges.**

2. The first report transmitted pursuant to this section must include the information for all months preceding January 1, 2012, in which any expenses were incurred to purchase, install and maintain the equipment used to provide for the acceptance of credit cards or debit cards for the payment of rates, fares and other charges.

3. Within 30 days after receipt of the reports made pursuant to this section, the Taxicab Authority shall compile the information contained in the reports and transmit that information to the Director of the Legislative Counsel Bureau for distribution to the Legislature.

Sec. 12. **The Taxicab Authority shall require all taxicab motor carriers in a county whose population is 700,000 or more who charge a customer a fee for the convenience of using a credit card or debit card for rates, fares or other charges to transmit a portion of those fees to the Authority on or before January 1, 2012, July 1, 2012, and January 1, 2013. The Taxicab Authority shall determine the amount of the fees**

required to be transmitted on a fair and equitable basis which ensures that the amount necessary is collected from each entity to enable the Taxicab Authority to transmit $400,000 on or before January 15, 2012, July 15, 2012, and January 15, 2013, to the Aging and Disability Services Division of the Department of Health and Human Services. The entire amount of the $1,200,000 transmitted to the Division must be expended on transportation services in Clark County provided through the Senior Ride Program and the Independent Living Grants Program.

Sec. 13. **The Taxicab Authority and the Nevada Transportation Authority shall each adopt any regulations necessary to implement the provisions of this act on or before October 1, 2011.**

Sec. 14. **This act becomes effective upon passage and approval.**

Assemblyman Atkinson moved that the Assembly concur in the Senate Amendment No. 737 to Assembly Bill No. 351.

Remarks by Assemblyman Atkinson.

Motion carried.

The following Senate amendment was read:

Amendment No. 971.

AN ACT relating to motor carriers; authorizing operators of taxicabs and operators of limousines to accept credit cards and debit cards for payment of rates, fares and charges; authorizing the prescribing of maximum fees that may be charged to customers of taxicabs and limousines for the convenience of payment by a credit card or debit card; prohibiting issuers of credit cards and debit cards and certain other persons from prohibiting the collection of the convenience fees; ~~[requiring the Taxicab Authority to compile a report for the Legislature concerning the costs of purchasing, installing and maintaining equipment to accept such payments; requiring a portion of the fee paid in certain counties to be used for certain transportation services;]~~ providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Transportation Authority regulates common motor carriers of passengers, which include limousines and, in counties with a population of less than 400,000 (currently all counties other than Clark County), taxicabs. (NRS 706.166) The Taxicab Authority regulates taxicabs in counties with a population of 400,000 or more (currently Clark County). (NRS 706.8818)

Sections 2 and 3 of this bill authorize taxicab and limousine operators to accept payment by a credit card or debit card. **Section 2** authorizes the Nevada Transportation Authority to prescribe by regulation **or order** the maximum fees that a taxicab motor carrier or limousine operator within its jurisdiction may charge for the convenience of paying by using a credit card or debit card. **Section 3** authorizes the Taxicab Authority to prescribe by regulation **or order** the maximum fees that a certificate holder in a county

whose population is 400,000 or more may charge for the convenience of paying by using a credit card or debit card. **Sections 2 and 3** also set forth the manner in which the amount of the fee that may be charged will be determined and prohibit an issuer of a credit card or debit card or certain other persons who facilitate the acceptance of a credit card or debit card from prohibiting the collection by a taxicab or limousine operator of the convenience fee.

~~[Section 11 of this bill requires each taxicab motor carrier in a county whose population is 700,000 or more (currently Clark County) to transmit a report to the Taxicab Authority on or before January 1, 2012, July 1, 2012, January 1, 2013, and July 1, 2013, which sets out the actual costs that the taxicab motor carrier incurred during the immediately preceding 6 months to purchase, install and maintain the equipment used to accept credit cards or debit cards. Section 11 requires the Taxicab Authority to compile the information contained in the reports within 30 days of receipt and transmit the information to the Director of the Legislative Counsel Bureau for distribution to the Legislature.~~

~~Section 12 of this bill requires each taxicab motor carrier in a county whose population is 700,000 or more (currently Clark County) that charges a fee to customers for using a credit card or debit card to transmit a portion of the fee so collected to the Taxicab Authority on or before January 1, 2012, July 1, 2012, and January 1, 2013. The Taxicab Authority is required to determine the amount to be transmitted on a fair and equitable basis to ensure that the Taxicab Authority is able to transmit $400,000 on or before January 15, 2012, July 15, 2012, and January 15, 2013, to the Aging and Disability Services Division of the Department of Health and Human Services for expenditure on transportation services in Clark County.~~

~~Section 13 of this bill requires the adoption of any regulations by the Taxicab Authority and the Nevada Transportation Authority necessary to implement the bill by October 1, 2011.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. A taxicab motor carrier or an operator of a limousine may enter into a contract with an issuer of credit cards and debit cards to provide for the acceptance of credit cards or debit cards by the taxicab motor carrier or the operator of a limousine for the payment of rates, fares and charges owed to the taxicab motor carrier or the operator of a limousine.***

2. The Authority may prescribe by regulation or order the maximum fee that a taxicab motor carrier or an operator of a limousine may charge a customer for the convenience of using a credit card or debit card to make payment to the taxicab motor carrier or the operator of a limousine. [The] In prescribing such fees, the Authority [shall establish the fee in an amount that allows] may consider the expenses incurred by the taxicab motor carrier or the operator of a limousine [to recover the costs incurred] in accepting payment by a credit card or debit card , [. Only the costs associated with accepting payment by a credit card or debit card may be included in establishing the amount of the fee,] including, without limitation:

(a) Costs of required equipment and its installation;

(b) Administrative costs of processing credit card or debit card transactions; and

(c) Fees paid to issuers of credit cards or debit cards.

3. An issuer shall not, by contract or otherwise:

(a) Prohibit a taxicab motor carrier or an operator of a limousine from charging and collecting a fee authorized pursuant to subsection 2; or

(b) Require a taxicab motor carrier or an operator of a limousine to waive the right to charge and collect a fee authorized pursuant to subsection 2.

4. As used in this section, "issuer" means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:

(a) Issues a credit card or debit card; or

(b) Enters into a contract with a taxicab motor carrier, an operator of a limousine or other person to enable or facilitate the acceptance of a credit card or debit card.

Sec. 3. ***1. A certificate holder may enter into a contract with an issuer of credit cards and debit cards to provide for the acceptance of credit cards or debit cards by the certificate holder for the payment of rates, fares and charges owed to the certificate holder.***

2. The Taxicab Authority may prescribe by regulation or order the maximum fee that a certificate holder may charge a customer for the convenience of using a credit card or debit card to make payment to the certificate holder. [The] In prescribing such fees, the Taxicab Authority [shall establish the fee in an amount that allows] may consider the expenses incurred by the certificate holder [to recover the costs incurred] in accepting payment by a credit card or debit card , [. Only the costs associated with accepting payment by a credit card or debit card may be included in establishing the amount of the fee,] including, without limitation:

(a) Costs of required equipment and its installation;

(b) Administrative costs of processing credit card or debit card transactions; and

(c) Fees paid to issuers of credit cards or debit cards.

3. An issuer shall not, by contract or otherwise:

(a) Prohibit a certificate holder from charging and collecting a fee authorized pursuant to subsection 2; or

(b) Require a certificate holder to waive the right to charge and collect a fee authorized pursuant to subsection 2.

4. As used in this section, "issuer" means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:

(a) Issues a credit card or debit card; or

(b) Enters into a contract with a certificate holder or other person to enable or facilitate the acceptance of a credit card or debit card.

Sec. 4. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ***and section 2 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, ***and section 2 of this act*** apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, ***and section 2 of this act*** or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~[;]~~ ***, and section 2 of this act;***

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~[;]~~ ***, and section 2 of this act;***

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~[;]~~ ***, and section 2 of this act;***

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

➥ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

➥ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than $500 nor more than $1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of $1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 6. NRS 706.881 is hereby amended to read as follows:

706.881 1. The provisions of NRS 706.8811 to 706.885, inclusive, ***and section 3 of this act,*** apply to any county:

(a) Whose population is 400,000 or more; or

(b) For whom regulation by the Taxicab Authority is not required, if the board of county commissioners of the county has enacted an ordinance approving the inclusion of the county within the jurisdiction of the Taxicab Authority.

2. Upon receipt of a certified copy of such an ordinance from a county for whom regulation by the Taxicab Authority is not required, the Taxicab Authority shall exercise its regulatory authority pursuant to NRS 706.8811 to 706.885, inclusive, ***and section 3 of this act,*** within that county.

3. Within any such county, the provisions of this chapter which confer regulatory authority over taxicab motor carriers upon the Nevada Transportation Authority do not apply.

Sec. 7. NRS 706.8811 is hereby amended to read as follows:

706.8811 As used in NRS 706.881 to 706.885, inclusive, ***and section 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 706.8812 to 706.8817, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 706.885 is hereby amended to read as follows:

706.885 1. Any person who knowingly makes or causes to be made, either directly or indirectly, a false statement on an application, account or other statement required by the Taxicab Authority or the Administrator or who violates any of the provisions of NRS 706.881 to 706.885, inclusive, ***and section 3 of this act*** is guilty of a misdemeanor.

2. The Taxicab Authority or Administrator may at any time, for good cause shown and upon at least 5 days' notice to the grantee of any certificate or driver's permit, and after a hearing unless waived by the grantee, penalize the grantee of a certificate to a maximum amount of $15,000 or penalize the grantee of a driver's permit to a maximum amount of $500 or suspend or revoke the certificate or driver's permit granted by the Taxicab Authority or Administrator, respectively, for:

(a) Any violation of any provision of NRS 706.881 to 706.885, inclusive, ***and section 3 of this act*** or any regulation of the Taxicab Authority or Administrator.

(b) Knowingly permitting or requiring any employee to violate any provision of NRS 706.881 to 706.885, inclusive, ***and section 3 of this act*** or any regulation of the Taxicab Authority or Administrator.

➥ If a penalty is imposed on the grantee of a certificate pursuant to this section, the Taxicab Authority or Administrator may require the grantee to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. When a driver or certificate holder fails to appear at the time and place stated in the notice for the hearing, the Administrator shall enter a finding of default. Upon a finding of default, the Administrator may suspend or revoke the license, permit or certificate of the person who failed to appear and impose the penalties provided in this chapter. For good cause shown, the Administrator may set aside a finding of default and proceed with the hearing.

4. Any person who operates or permits a taxicab to be operated in passenger service without a certificate of public convenience and necessity issued pursuant to NRS 706.8827, is guilty of a gross misdemeanor. If a law enforcement officer witnesses a violation of this subsection, the law enforcement officer may cause the vehicle to be towed immediately from the scene.

5. The conviction of a person pursuant to subsection 1 does not bar the Taxicab Authority or Administrator from suspending or revoking any certificate, permit or license of the person convicted. The imposition of a fine or suspension or revocation of any certificate, permit or license by the Taxicab Authority or Administrator does not operate as a defense in any proceeding brought under subsection 1.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. ~~[1. Except as otherwise provided by subsection 2, on or before January 1, 2012, July 1, 2012, January 1, 2013, and July 1, 2013, each taxicab motor carrier in a county whose population is 700,000 or more shall transmit a report to the Taxicab Authority which sets out the actual costs that the taxicab motor carrier incurred during the immediately preceding 6 months to purchase, install and maintain the equipment used to provide for the acceptance of credit cards or debit cards for the payment of rates, fares and other charges.~~

~~2. The first report transmitted pursuant to this section must include the information for all months preceding January 1, 2012, in which any expenses were incurred to purchase, install and maintain the equipment used to provide~~

~~for the acceptance of credit cards or debit cards for the payment of rates, fares and other charges.~~

~~3. Within 30 days after receipt of the reports made pursuant to this section, the Taxicab Authority shall compile the information contained in the reports and transmit that information to the Director of the Legislative Counsel Bureau for distribution to the Legislature.~~**]** **(Deleted by amendment.)**

Sec. 12. **[**~~The Taxicab Authority shall require all taxicab motor carriers in a county whose population is 700,000 or more who charge a customer a fee for the convenience of using a credit card or debit card for rates, fares or other charges to transmit a portion of those fees to the Authority on or before January 1, 2012, July 1, 2012, and January 1, 2013. The Taxicab Authority shall determine the amount of the fees required to be transmitted on a fair and equitable basis which ensures that the amount necessary is collected from each entity to enable the Taxicab Authority to transmit $400,000 on or before January 15, 2012, July 15, 2012, and January 15, 2013, to the Aging and Disability Services Division of the Department of Health and Human Services. The entire amount of the $1,200,000 transmitted to the Division must be expended on transportation services in Clark County provided through the Senior Ride Program and the Independent Living Grants Program.~~**]** **(Deleted by amendment.)**

Sec. 13. **[**~~The Taxicab Authority and the Nevada Transportation Authority shall each adopt any regulations necessary to implement the provisions of this act on or before October 1, 2011.~~**]** **(Deleted by amendment.)**

Sec. 14. **[**~~This act becomes effective upon passage and approval.~~**]** **(Deleted by amendment.)**

Assemblyman Atkinson moved that the Assembly concur in the Senate Amendment No. 971 to Assembly Bill No. 351.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered enrolled.

VETOED BILLS AND SPECIAL ORDERS OF THE DAY

Vetoed Assembly Bill No. 130 of the 75th Session.

Governor’s message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR
JIM GIBBONS
Governor

June 9, 2009

THE HONORABLE ROSS MILLER, *Secretary of State*, CAPITOL BUILDING, 101 NORTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill No. 130 of the 75th Legislative Session

DEAR SECRETARY MILLER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 130, which is entitled:

> AN ACT relating to police departments; revising provisions governing the membership of a metropolitan police committee on fiscal affairs; revising provisions governing negotiations between metropolitan police departments and their employees; and providing other matters properly relating thereto.

Assembly Bill 130 precludes a county from effectively participating in negotiations between a metropolitan police department t and its employees. The entity responsible for funding the agreements that result from those negotiations should have a real seat at the negotiating table. Under this bill, the local government would only be able to "monitor" the negotiations. Because this bill changed a fundamental negotiating process that has worked well in the past, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 130.

Sincerely,
JIM GIBBONS
Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 130 of the 75th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 395 of the 75th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR
JIM GIBBONS
Governor

June 4, 2009

THE HONORABLE ROSS MILLER, *Secretary of State*, CAPITOL BUILDING, 101 NORTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill No. 395 of the 75th Legislative Session

DEAR SECRETARY MILLER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 395, which is entitled:

> AN ACT relating to state employees; authorizing discussions of workplace relations for certain state employees; expanding the duties of the Personnel Commission to include discussions of

workplace relations for certain state employees; providing for workplace relations units of state employees and for their representatives; establishing procedures for discussing workplace relations and for making and amending workplace relations agreements; prohibiting certain unfair labor practices; and providing other matters properly relating thereto.

This bill would implement collective bargaining for state employees. Nevada is currently in the grips of a severe economic recession. The resulting decrease in state revenues recently resulted in the enactment of the largest tax increase in state history in order to fund state expenditures. Assembly Bill 395 would dramatically increase the cost of state government even further. I find it unfathomable and unconscionable that the Legislature would pass a bill that would result in further increases in state spending and would require even further tax increases to fund that spending. I hope that by the time this veto message is read to the Legislature some modicum of common sense has returned to the process and we can all focus on satisfying the needs rather than the wants of state government.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 395.

Sincerely,
JIM GIBBONS
Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 395 of the 75th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 451 of the 75th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR
JIM GIBBONS
Governor

June 9, 2009

THE HONORABLE ROSS MILLER, *Secretary of State*, CAPITOL BUILDING, 101 NORTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill No. 451 of the 75th Legislative Session

DEAR SECRETARY MILLER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 451, which is entitled:

AN ACT relating to state obligations; establishing a program for the investment of state money in certificates of deposit at a reduced rate to provide lending institutions with money for reduced-rate loans to certain small businesses in this State; and providing other matters properly relating thereto..

Assembly Bill 451 mandates that the Treasurer establish a linked-deposit program of up to $20,000,000 and sets forth the requirements of that program. The Treasurer has always been a fiduciary of the state and is required to invest taxpayer dollars in a way that maximizes the safety and return of state investments. This bill would change that fundamental duty and require the

Treasurer to engage in de facto social investing at the expense of ignoring fiduciary obligations. I therefore cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 451.

Sincerely,
JIM GIBBONS
Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 451 of the 75th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 503 of the 75th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR
JIM GIBBONS
Governor

June 9, 2009

THE HONORABLE ROSS MILLER, *Secretary of State*, CAPITOL BUILDING, 101 NORTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill No. 503 of the 75th Legislative Session

DEAR SECRETARY MILLER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 503, which is entitled:

> AN ACT relating to transportation; creating an advisory committee to develop recommendations relating to the funding of the construction and maintenance of highways in this State; providing for the membership, compensation and duties of the advisory committee; authorizing the advisory committee to place advisory questions regarding its recommendations on the ballot for the general election to be held in 2010; requiring the Secretary of State to appoint committees to prepare arguments for and against approval of the recommendation proposed in any such advisory question placed on the ballot; and providing other matters properly relating thereto.

Assembly Bill 503 would establish a committee appointed solely by members of the legislative branch to make recommendations with respect to transportation funding. The bill would also mandate that any such recommendations be placed on the general election ballot in 2010 as an advisory question. This bill effectively circumvents the legislative process by allowing a small group of non-elected officials to make recommendations that have major implications on taxpayers, and to then present those recommendations to voters. If such recommendations are to be submitted to the voters, they should be recommendations from the Legislature as a whole. This bill represents an abdication of legislative authority that I cannot support.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 503.

Sincerely,
JIM GIBBONS
Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 503 of the 75th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 135 of the 76th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 1, 2011

SPEAKER JOHN OCEGUERA, *Nevada State Assembly*, 401 SOUTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill 135 of the 76th Legislative Session

DEAR MR. SPEAKER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 135, which is entitled:

> AN ACT relating to probation; revising provisions concerning violations of probation; and providing other matters properly relating thereto.

This bill relates to the authority of courts to, upon determination that a person has violated a condition of probation, continue or revoke the probation or suspension of sentence. More specifically, the bill limits courts' discretion to revoke the probation and suspension of sentence to cases where: (1) imprisonment is necessary to protect the community from further criminal activity by the probationer; (2) the probationer is in need of treatment which can most effectively be provided if he or she is imprisoned; (3) the seriousness of the violation or the totality of violations by the probationer warrant revocation of probation and suspension of the sentence; or (4) the violation demonstrates the probationer cannot be supervised pursuant to practices and policies governing probation.

The bill further precludes courts from revoking probation and the suspension of the sentence based on the probationer's failure to pay court imposed administrative assessments, fees and expenses. In addition, before revoking probation and the suspension of the sentence, the bill requires courts to make findings to support the reasons for the revocation and state them on the record.

The requirement that courts state on the record the reasons for revocation of probation and the suspension of a sentence is reasonable. The limits imposed on the discretion of courts to revoke probation and the suspension of a sentence, however, are not. The effective administration of justice requires the proportionate enforcement of criminal sentences. Proportionality is not, though, easily obtained through the application of categorical methodology. Instead, courts require flexibility and discretion in fashioning the appropriate response to a probation violation. Thus, courts have traditionally been granted latitude in determining the appropriate mechanism by which such sentences are enforced. The revocation of probation and the suspension of a sentence are tools often employed toward that end.

Insofar as this bill limits the cases in which these enforcement mechanisms are available, it undermines the ability of courts to effectively enforce sentences. The Legislature's attempt to categorically define the circumstances under which revocation of probation and the suspension of a sentence are appropriate fails to adequately capture the scope of cases where such revocation is appropriate; therefore, I veto this bill and return it to you without my approval.

Sincere regards,

BRIAN SANDOVAL

Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 135 of the 76th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 183 of the 76th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

April 4, 2011

SPEAKER JOHN OCEGUERA, *Nevada State Assembly,* 401 SOUTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill 183 of the 76th Legislative Session

DEAR MR. SPEAKER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 183, which is entitled:

> AN ACT relating to school districts; revising the provisions regarding the establishment and maintenance of a reserve account for payment of the outstanding bonds of a school district; and providing other matters properly relating thereto.

This bill relates to the maintenance of reserve accounts established to support the repayment of school bonds. It proposes to reduce the amount of money held in those accounts in order to facilitate school improvements. Supporters of the bill assert that it will result not only in an improved educational environment for the state's children, but in an increased number of construction jobs as well.

The bill has merit; a quality educational environment is important to the success of our students, and our state has far too many unemployed construction workers. But the condition of our schools and the struggles of the construction industry are not the only challenges we confront. Indeed, with an unemployment rate of 13.6 percent and the nation's worst graduation rates, rarely has our state been so severely tested. In the face of such difficulty, we cannot afford to be parochial. Instead, we must pursue policies that present the greatest chance of success to the greatest number of Nevadans.

Improving the quality of instruction our children receive and fostering the success of workers across our economy are essential steps in moving the state forward. Because this bill makes it harder to do these things, I will veto it. In appropriating bond reserve money for construction, proponents of the bill have reduced the amount of funds available for classroom instruction by approximately $301 million. Along the way, they have misleadingly cited those who voted for the issuance of school bonds in the past as supporting their cause today, unfairly attributing to them their narrow view. What is more, they have failed to provide an accounting of the cost of this bill.

If these reductions stand, they will necessarily result in deeper cuts—cuts that will cost over 5,000 teachers their jobs. Alternatively, AB 183 will require a new tax at a point when our economy is presenting limited but promising signs of recovery. This bill justifies neither choice. I therefore exercise my constitutional grant of authority to veto AB 183, and return the bill to you without my signature.

Sincere regards,
BRIAN SANDOVAL
Governor of Nevada

Assemblywoman Kirkpatrick moved that Assembly Bill No. 183 of the 76th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 253 of the 76th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 1, 2011

SPEAKER JOHN OCEGUERA, *Nevada State Assembly,* 401 SOUTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill 253 of the 76th Legislative Session

DEAR MR. SPEAKER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 253, which is entitled:

> AN ACT relating to occupational safety; revising certain fines for willful violations of the Nevada Occupational Safety and Health Act; authorizing citations and fines for violation of a settlement agreement; providing for a survey of salaries of safety and mechanical inspectors; and providing other matters properly relating thereto.

This bill relates to occupational safety. It proposes significant increases to the fines that may be imposed for willful violations of the Nevada Occupational Safety and Health Act (OSHA). The bill also revises the punishment for a willful violation that results in the death of an employee.

There is some merit to the argument that the bills increased fines may help reduce the number of willful OSHA violations occurring in Nevada's workplaces. However, a more innovative and proactive approach is warranted to improve workplace safety and change behavior before it results in workplace injuries or death. I therefore exercise my constitutional grant of authority to veto AB 253 and return it to you without my approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 253 of the 76th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 254 of the 76th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 1, 2011

SPEAKER JOHN OCEGUERA, *Nevada State Assembly,* 401 SOUTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill 254 of the 76th Legislative Session

DEAR MR. SPEAKER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 254, which is entitled:

> AN ACT relating to occupational safety; revising provisions governing the grounds for the issuance of a citation for certain occupational safety and health violations; providing for the issuance of a citation for certain occupational safety and health violations upon a determination by the Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's authorized representative that any employee has access to a hazard; and providing other matters properly relating thereto.

This bill relates to occupational safety. Like Assembly Bill 253, which I have already vetoed, Assembly Bill 254 unnecessarily increases the complexity and cost of operating a business in Nevada. The bill expands the scope of behavior for which a citation may be issued to an employer for violating the Nevada Occupational Safety and Health Act (OSHA) by allowing the issuance of a citation based upon a determination that an employee "has access to a hazard" in the workplace.

Legislation passed in 2009 has significantly improved jobsite safety and enforcement of OSHA violations in Nevada, and I am a strong supporter of continued improvement in these areas. However, this bill creates ambiguous and misguided new requirements that will be difficult to enforce and burdensome to comply with. Because this bill will not proactively improve the conditions and safety of our workplaces, I veto it and return it to you without my approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 254 of the 76th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 309 of the 76th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 6, 2011

SPEAKER JOHN OCEGUERA, *Nevada State Assembly*, 401 SOUTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill 309 of the 76th Legislative Session

DEAR MR. SPEAKER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 309, which is entitled:

> 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 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 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 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 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 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 health benefit plan filed by an insurer; revising certain provisions relating to trade secrets of insurers; providing a penalty; and providing other matters properly relating thereto.

This bill creates the Office of Consumer Advocate within the Division of Insurance. It provides that any insurer that offers an individual health benefit plan or a group health plan for small employers in this State must provide the Consumer Advocate and the Division with copies of any proposed rate changes and other information used to calculate a rate or proposed rate increase or decrease. The bill also requires such insurers to publish on an Internet website the base premiums, certificates of coverage, projected loss ratio reported to the Department of Health and Human Services and the actual loss ratio reported to the Department for the preceding fiscal year for each health benefit plan offered by the insurer in this State.

The bill requires that upon the filing of a rate or proposed rate increase or decrease, the insurer or the Consumer Advocate may request that the Insurance Commissioner conduct a public hearing on the rate or proposed rate increase or decrease. The bill also provides that a consumer may request a public hearing if the proposed increase or decrease is more than 10 percent of the current rate or the health benefit plan represents more than 5 percent of its market segment in the State. The Commissioner has discretion to hold a hearing and review the rate change. The bill further provides that information submitted by the insurer is public unless the Commissioner determines it is a trade secret, confidential medical information or relates to the amount, terms or conditions of reimbursement pursuant to a contract between the insurer and a third party.

The goals of this bill are laudable; maintaining reasonable health benefit insurance rates in the individual and small group markets is important to protecting consumers and maintaining economic growth. The bill, however, does more harm than good and seems to impose duplicative regulatory requirements. For example, the State, today, has an existing rate review process. Moreover, the creation of the Office of Consumer Advocate within the Division will increase costs, likely multiplying the number of hearings and the attendant costs to consumers. Indeed, the Consumer Advocate also appears to be a redundant position in that the Commissioner is already tasked by law with assessing rate changes with the interest of the consumer in mind. Some proponents of this bill suggest that the bill is necessary to comply with federal law. They argue that confidentiality provisions in the law presently, but amended by this bill, preclude the State from establishing a rate review process that satisfies federal standards. It seems unlikely, however, that this is the case. The requirement under federal law, for example, that the State cooperate with insurers to post the provider name, the rate increase

requested and the date of the implementation of the increase would not likely run afoul of the proscriptions on posting trade secrets and other proprietary information under our laws. Thus, compliance with federal law is possible without this bill.

Therefore, because Assembly Bill 309 unnecessarily expands a regulatory structure at the expense of health benefit consumers, and because compliance with federal law does not require it, I exercise my constitutional authority to veto Assembly Bill 309, returning it to you without my signature and without my approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 309 of the 76th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 456 of the 76th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 1, 2011

SPEAKER JOHN OCEGUERA, *Nevada State Assembly*, 401 SOUTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill 456 of the 76th Legislative Session

DEAR MR. SPEAKER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 456, which is entitled:

> AN ACT relating to education; authorizing certain pupils to receive a standard high school diploma without passing all subject areas of the high school proficiency examination under certain circumstances; authorizing the board of trustees of a school district to adopt a policy that allows certain pupils enrolled in high school the opportunity to make up credit; authorizing a juvenile court to impose certain orders against the parent or legal guardian of a child who is adjudicated in need of supervision because the child is a habitual truant; revising provisions governing employment of minors; and providing other matters properly relating thereto.

This bill alters requirements for graduation from high school. In order to receive a standard high school diploma, students must pass all portions of the Nevada High School Proficiency Examination (HSPE) and meet certain other district and state requirements. Approval of Assembly Bill 456 would allow students to graduate from high school even if they continue to fail one subject area of the HSPE, so long as they earn at least a 2.75 grade point average, satisfy minimum attendance requirements, do not have any pending disciplinary actions, and obtain a cumulative passing score on the HSPE.

Supporters of the bill point out that some students cannot pass the math portion of the HSPE, but these students are otherwise proficient in all other subject areas and do well in school. While personally compelling, this argument lacks a broad policy implication; if the number of students is as small as has been represented, other remedies may exist besides a wholesale change in graduation requirements. The bill does not address the fact that Nevada's graduation rates and

grade-level performance are amongst the worst in the nation. It similarly fails to address why an achievement gap exists for a few students on certain portions of the HSPE. Other measures already enacted this legislative session do more to change the status quo. For example, Assembly Bill 290 will allow the principal of a high school to postpone administration of the math and/or science portion of the HSPE for pupils who are not academically ready. These students will be enrolled in appropriate course work and participate in a program designed to help students pass the exam.

Although this bill may allow more students to graduate from high school, it represents diminished expectations for our students and lower standards for obtaining a high school diploma in Nevada. In my State of the State address, I said that our education system emphasizes too many of the wrong things. AB 456 is another example of this paradigm and would send the wrong message to our students.

I am committed to improving our education system and enhancing student achievement. Because this bill provides a way to hide or ignore a student achievement problem, rather than to fix it, I veto it and return it to you without my approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 456 of the 76th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 501 of the 76th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 6, 2011

SPEAKER JOHN OCEGUERA, *Nevada State Assembly*, 401 SOUTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill 501 of the 76th Legislative Session

DEAR MR. SPEAKER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 501, which is entitled:

> AN ACT relating to the death penalty; providing for an audit of the fiscal costs of the death penalty; and providing other matters properly relating thereto.

This bill requires the Legislative Auditor to conduct an audit of the fiscal costs associated with the death penalty in this State. It further requires that the audit include an examination and analysis concerning the costs of prosecuting and adjudicating capital murder cases, including the costs relating to the death penalty borne by the State and by local governments at each stage of the proceedings. These costs include pretrial costs, trial costs, appellate costs, post conviction costs and costs of incarceration.

An assessment of the costs of the death penalty is naturally a part of the policy discussion surrounding the ultimate punishment under the law. However, any discussion of the costs must be founded upon fair and accurate study. This bill lacks the specificity necessary to persuade me that the outcome of the audit performed will be fair. The bill, for example, lists the costs to be assessed in determining the overall fiscal impact of the imposition of the death penalty, but it does not specify how it is these costs will be assessed. There is no methodology for determining

the cost of counsel in either the prosecution or defense of such cases, nor is there a prescribed method for the assessment of any of the other costs purported to be studied by the bill. Furthermore, the bill does not reflect how the audit will account for the influence of individualized litigation choices, in the context of death penalty litigation generally, made by defendants that often drive the costs of such cases. Thus, because the bill fails to assure me that the outcome of the audit will be reliable and fair, I veto it, returning it to you without my signature and without my approval.

Sincerely,
BRIAN SANDOVAL
Governor of Nevada

Assemblywoman Kirkpatrick moved that Assembly Bill No. 501 of the 76th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 566 of the 76th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

May 31, 2011

SPEAKER JOHN OCEGUERA, *Nevada State Assembly*, 401 SOUTH CARSON STREET, CARSON CITY, NV 89701

RE: Assembly Bill 566 of the 76th Legislative Session

DEAR MR. SPEAKER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 566, which is entitled:

> AN ACT relating to elections; revising the legislative districts from which the members of the Senate and Assembly are elected; revising the districts from which Representatives in the Congress of the United States are elected; and providing other matters properly relating thereto.

This bill relates to the revision of legislative and Congressional districts in our state. On May 14, 2011, I vetoed Senate Bill 497 relating to the same subject. In my message to the President of the Senate, I stated my objections: the plan reflected in the bill did not provide for the fair representation of the people of the state of Nevada, nor did it comply with the Voting Rights Act of 1965. I veto this bill for the same reasons, incorporating by reference my letter to the President of the Senate of March 14, 2011 relating to Senate Bill 497 in support of this action.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 566 of the 76th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 568 of the 76th Session.
Governor's message stating his objections read.
Bill read.

OFFICE OF THE GOVERNOR

May 16, 2011

SPEAKER JOHN OCEGUERA, *Nevada State Assembly*, 401 South Carson Street, Carson City, Nevada 89701

RE: Assembly Bill 568 of the 76th Legislative Session

DEAR MR. SPEAKER:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 568, which is entitled:

> AN ACT relating to education; ensuring sufficient funding for K-12 public education for the 2011-2013 biennium; apportioning the State Distributive School Account in the State General Fund for the 2011-2013 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other educational purposes; temporarily diverting the money from the State Supplemental School Support Fund to the State Distributive School Account for use in funding operating costs and other expenditures of school districts; and providing other matters properly relating thereto.

I veto and return this bill because it increases state spending by nearly $660 million above the amount proposed in the Executive Budget, as amended. Were this bill to be enacted into law, insufficient revenue would be available for the Legislature to meet its obligation to prepare a balanced budget encompassing all areas of state responsibility.

Approval of Assembly Bill 568, without corresponding reductions in spending in other parts of the Executive Budget, would violate the requirement of balanced relations between proposed expenditures and anticipated revenues. This bill therefore represents a circuitous attempt to secure a tax increase—despite the fact I have been clear since the commencement of the Legislative Session that Nevada's struggling economy must be allowed to fully recover.

Within this context, I have provided the Legislature with a spending plan for K-12 education, as well as a comprehensive legislative package to ensure educator accountability, parental choice, and other much-needed system reforms. I am committed to improving our education system; I am equally committed to doing so in a fiscally prudent manner. I understand these decisions are difficult, but as leaders we must make them. While all of us would like to have more money to spend, we must also accept that education funding cannot occur in a vacuum. Current economic realities require that we spend only the money we have, while allowing for the additional funding of education as the economy continues to improve.

Indeed, only two weeks ago, the report of Nevada's Economic Forum allowed me to submit a budget amendment that added some $240 million for the support of K-12 education just four months after the original Executive Budget was presented to the Legislature. I propose that "triggers" be adopted so additional funding can continue to go straight to the support of the classroom as revenue becomes available through economic recovery.

I am compelled to protect the integrity of my office and the Nevada Constitution. Assembly Bill 568 was processed in a matter of hours, with the clear intention of casting opponents as somehow "anti-education" while at the same time forcing a tax increase. Such a manipulation of the process undermines the Legislature's obligations to the people of this state.

Much work remains to be done, with only three weeks in which to do it. The people of Nevada have stated clearly their expectation for the Legislature to complete its work and adjourn sine die within 120 days. (Nev. Const. art. 4, § 2.) That deadline is fast approaching, and we have precious little time remaining to conduct the people's business in a responsible and realistic manner.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Kirkpatrick moved that Assembly Bill No. 568 of the 76th Session be placed on the Chief Clerk's desk.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:07 a.m.

ASSEMBLY IN SESSION

At 12:32 a.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 271 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 271.

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Pierce moved to withdraw Amendment No. 951 to Senate Bill No. 271.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 271.

Bill read third time.

Remarks by Assemblymen Hickey, Kite, Pierce, and Bobzien.

Assemblymen Grady, Ellison, and Hardy moved the previous question.

Motion carried.

The question being the passage of Senate Bill No. 271.

Roll call on Senate Bill No. 271:

YEAS—28.

NAYS—Aizley, Benitez-Thompson, Bobzien, Brooks, Carlton, Carrillo, Daly, Diaz, Hogan, Mastroluca, Ohrenschall, Pierce, Segerblom, Smith—14.

Senate Bill No. 271 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 6, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 279.

Also, I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 487.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 416, Amendments Nos. 975, 989, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 503, Amendments Nos. 964, 982, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 984 to Senate Bill No. 115; Assembly Amendments Nos. 717, 972 to Senate Bill No. 314; Assembly Amendment No. 962 to Senate Bill No. 340; Assembly Amendments Nos. 923, 968 to Senate Bill No. 483; Assembly Amendment No. 980 to Senate Bill No. 493.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Segerblom moved to reconsider the vote whereby Senate Bill No. 506 was this day refused passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 506.

Bill read third time.

Roll call on Senate Bill No. 506:

YEAS—29.

NAYS—Aizley, Atkinson, Bustamante Adams, Carlton, Carrillo, Daly, Goedhart, Hambrick, Horne, McArthur, Neal, Ohrenschall, Pierce—13.

Senate Bill No. 506 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Mr. Speaker appointed Assemblymen Conklin, Kirkpatrick, and Goicoechea as a committee to wait upon His Excellency, Governor Brian Sandoval, Governor of the State of Nevada, and to inform him that the Assembly was ready to adjourn *sine die*.

Mr. Speaker appointed Assemblymen Smith, Horne, and Stewart as a committee to wait upon the Senate and to inform that honorable body that the Assembly was ready to adjourn *sine die*.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 199, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 658 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 21, which is attached to and hereby made a part of this report.

MAGGIE CARLTON	
TICK SEGERBLOM	ALLISON COPENING
PAT HICKEY	ELIZABETH HALSETH
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA21.

AN ACT relating to the practice of pharmacy; revising provisions governing the authority of a registered pharmacist to collaborate with a practitioner for the implementation, monitoring and modification of drug therapy; authorizing the State Board of Pharmacy to establish regulations relating to collaborative pharmacy practice; revising provisions governing the use of the letters “Rx” and “RX” by certain persons; revising provisions relating to the authority of a registered pharmacist to possess and administer controlled substances and dangerous drugs under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a registered pharmacist to collaborate with a practitioner to engage in the implementation and modification of drug therapy for a patient at a licensed medical facility or licensed pharmacy. (NRS 639.0124) **Section 1** of this bill prescribes requirements for written guidelines and protocols which must be developed by a pharmacist who collaborates with a practitioner and requires those guidelines and protocols to be approved by the State Board of Pharmacy. **Section 1** also authorizes the written guidelines and protocols to set forth provisions for a pharmacist to implement, monitor and modify the drug therapy of a patient in a medical facility or a setting that is affiliated with a licensed medical facility. **Sections 10.3 and 10.7** of this bill revise the authority of a pharmacist to possess and

administer controlled substances and dangerous drugs under certain circumstances for the care of a patient in accordance with the written guidelines and protocols developed pursuant to **section 1**.

Existing law prohibits a person operating a business from using the letters "Rx" or "RX" if the person does not have a license from the Board. (NRS 639.230) **Section 10** of this bill authorizes persons who are not subject to the laws governing the practice of pharmacy to use those letters if the person obtains approval from the Board.

A person who violates any provision of chapter 639 of NRS governing pharmacists and pharmacies, including any provision of this bill, is guilty of a misdemeanor. (NRS 639.310)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Written guidelines and protocols developed by a registered pharmacist in collaboration with a practitioner which authorize the implementation, monitoring and modification of drug therapy:

(a) May authorize a pharmacist to order and use the findings of laboratory tests and examinations.

(b) May provide for implementation, monitoring and modification of drug therapy for a patient receiving care:

(1) In a licensed medical facility; or

(2) If developed to ensure continuity of care for a patient, in any setting that is affiliated with a medical facility where the patient is receiving care. A pharmacist who modifies a drug therapy of a patient receiving care in a setting that is affiliated with a medical facility shall, within 72 hours after implementing or modifying the drug therapy, provide written notice of the implementation or modification of the drug therapy to the collaborating practitioner or enter the appropriate information concerning the drug therapy in an electronic patient record system shared by the pharmacist and the collaborating practitioner.

(c) Must state the conditions under which a prescription of a practitioner relating to the drug therapy of a patient may be changed by the pharmacist without a subsequent prescription from the practitioner.

(d) Must be approved by the Board.

2. The Board may adopt regulations which:

(a) Prescribe additional requirements for written guidelines and protocols developed pursuant to this section; and

(b) Set forth the process for obtaining the approval of the Board of such written guidelines and protocols.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 639.0124 is hereby amended to read as follows:

639.0124 "Practice of pharmacy" includes, but is not limited to, the:

1. Performance or supervision of activities associated with manufacturing, compounding, labeling, dispensing and distributing of a drug, including the receipt, handling and storage of prescriptions and other confidential information relating to patients.

2. Interpretation and evaluation of prescriptions or orders for medicine.

3. Participation in drug evaluation and drug research.

4. Advising of the therapeutic value, reaction, drug interaction, hazard and use of a drug.

5. Selection of the source, storage and distribution of a drug.

6. Maintenance of proper documentation of the source, storage and distribution of a drug.

7. Interpretation of clinical data contained in a person's record of medication.

8. Development of written guidelines and protocols in collaboration with a practitioner which are intended for a patient in a licensed medical facility ***or in a setting that is affiliated with a medical facility where the patient is receiving care*** and ***which*** authorize the implementation, monitoring and modification of drug therapy. The written guidelines and protocols ~~[may authorize a pharmacist to order and use the findings of laboratory tests and examinations.]~~ ***must comply with section 1 of this act.***

9. Implementation and modification of drug therapy in accordance with the authorization of the prescribing practitioner for a patient in a pharmacy in which drugs, controlled substances, poisons, medicines or chemicals are sold at retail.

➥ The term does not include the changing of a prescription by a pharmacist or practitioner without the consent of the prescribing practitioner, except as otherwise provided in NRS 639.2583.

Sec. 10. NRS 639.230 is hereby amended to read as follows:

639.230 1. A person operating a business in this State shall not use ~~[the letters "Rx" or "RX" or]~~ the word "drug" or "drugs," "prescription" or "pharmacy," or similar words or words of similar import, without first having secured a license from the Board. ***A person operating a business in this State which is not otherwise subject to the provisions of this chapter shall***

not use the letters "Rx" or "RX" without the approval of the Board. The Board ~~[must not unreasonably]~~ may deny approval of the use of the letters "Rx" or "RX" by any person ~~[but may deny approval upon a determination]~~ if the Board determines that:

(a) The person is subject to the provisions of this chapter but has not secured a license from the Board; or

(b) The use of the letters "Rx" or "RX" by the person is confusing or misleading to or threatens the health or safety of the residents of this State.

2. Each license must be issued to a specific person and for a specific location and is not transferable. The original license must be displayed on the licensed premises as provided in NRS 639.150. The original license and the fee required for reissuance of a license must be submitted to the Board before the reissuance of the license.

3. If the owner of a pharmacy is a partnership or corporation, any change of partners or corporate officers must be reported to the Board at such a time as is required by a regulation of the Board.

4. Except as otherwise provided in subsection 6, in addition to the requirements for renewal set forth in NRS 639.180, every person holding a license to operate a pharmacy must satisfy the Board that the pharmacy is conducted according to law.

5. Any violation of any of the provisions of this chapter by a managing pharmacist or by personnel of the pharmacy under the supervision of the managing pharmacist is cause for the suspension or revocation of the license of the pharmacy by the Board.

6. The provisions of this section do not prohibit ~~[a]~~ ***:***

(a) A Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to subsection 9 of NRS 223.560 from providing prescription drugs through mail order service to residents of Nevada in the manner set forth in NRS 639.2328 to 639.23286, inclusive ~~[.]~~ ***; or***

(b) A registered pharmacist or practitioner from collaborating in the implementation, monitoring and modification of drug therapy pursuant to guidelines and protocols approved by the Board.

Sec. 10.3. NRS 453.026 is hereby amended to read as follows:

453.026 "Agent" means a pharmacist ~~[,]~~ ***who cares for a patient of a prescribing practitioner in a medical facility or in a setting that is affiliated with a medical facility where the patient is receiving care in accordance with written guidelines and protocols developed and approved pursuant to section 1 of this act, a*** licensed practical nurse or registered nurse who cares for a patient of a prescribing practitioner in a medical facility or an authorized person who acts on behalf of or at the direction of and is

employed by a manufacturer, distributor, dispenser or prescribing practitioner. The term does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

Sec. 10.7. 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 at the direction of his or her supervising veterinarian.

18. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards of Immunization Practices" recommended and approved by the United States Public Health Service Advisory Committee on Immunization Practices.

19. ***A registered pharmacist pursuant to written guidelines and protocols developed and approved pursuant to section 1 of this act.***

20. 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.

Sec. 11. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

Assemblywoman Carlton moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 199.

Remarks by Assemblywoman Carlton.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 376, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 632 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 23, which is attached to and hereby made a part of this report.

DAVID BOBZIEN	JOHN LEE
RICHARD (SKIP) DALY	MARK MANENDO
	JOE HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA23.

SUMMARY—Makes various changes regarding ~~[the financing of certain local improvements with revenue pledged from sales and use taxes.]~~ **local governmental administration.** (BDR 21-148)

AN ACT relating to ~~[tourism improvement districts;]~~ **local governmental administration; authorizing certain local governments to impose a surcharge for the improvement and maintenance of certain publicly owned facilities;** making various changes regarding the financing of certain local improvements with revenue pledged from sales and use taxes; providing a procedure for the selection of subcontractors on certain contracts; **authorizing the imposition of a surcharge in certain counties on the amount charged for any items or services related to a minor league baseball stadium project; revising provisions regarding the establishment and maintenance of a reserve account for payment of the outstanding bonds of a school district; requiring certain plans relating to the water reclamation facility of the City of North Las Vegas;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the governing body of a city whose population is 220,000 or more in a county whose population is 100,000 or more but less than 700,000 (currently the City of Reno) to create by ordinance a district to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment. Section 1 requires that the ordinance creating such a district impose a surcharge of $2 on the per night charge for the rental of a room in a hotel in the district that holds a nonrestricted gaming license. Section 1 also provides that the proceeds of the surcharge be used only for the cost of improving and maintaining publicly owned facilities for tourism and entertainment in the district or within 1 mile outside the boundaries of the district, except for a minor league baseball stadium project.

Existing law authorizes the governing body of any city or county to create a tourism improvement district (TID) and to pledge revenue from several sales and use taxes imposed in that district to finance certain projects within the district. The projects may be owned by the municipality, another governmental entity or any person and may be financed through the issuance of bonds or the entry into agreements for the reimbursement of the costs of the projects. (Chapter 271A of NRS) **Section ~~[2.]~~ 4** of this bill requires the independent auditing of claims made under agreements to provide such financing. **Section ~~[2.]~~ 4** also prohibits the use of such financing, with respect to a TID created on or after July 1, 2011, to pay various fees and costs and for the relocation within the TID of a retailer from another location within 3 miles outside of the boundary of the TID, and excludes the use for such

financing of the tax revenue from such a retailer. **Section ~~[6]~~ 8** of this bill prohibits the provision of such financing to certain governmental entities if a nongovernmental entity obtained any of the original financing in the TID, and prohibits such financing, without the consent of the entities which obtained the original financing in the TID, to an entity that did not obtain any of the original financing in the TID. **Section ~~[3]~~ 5** of this bill specifies the procedure required for the selection of subcontractors by contractors and developers who enter into certain construction contracts on financed projects or on property within a TID which benefits from financed infrastructure improvements. **Section ~~[4]~~ 6** of this bill requires a municipality that creates a TID to prepare and submit to the Legislature annual reports regarding the TID, and requires the Department of Taxation to prepare and submit to the Legislature and the municipality semiannual reports regarding businesses within a TID. **Section ~~[7]~~ 9** of this bill applies the prevailing wage provisions applicable to public works to construction contracts for financed projects within a TID to the same extent as if the contracts were awarded by the municipality and the projects constituted public works.

Existing law does not allow the creation of a TID unless the pertinent governing body makes a written finding at a public hearing, based upon reports from independent consultants, as to whether the proposed project and financing will have a positive fiscal effect on the provision of local governmental services. (NRS 271A.080) **Section ~~[5]~~ 7** of this bill requires the selection of those independent consultants from a list provided by the Commission on Tourism.

Existing law authorizes the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to acquire, lease, improve, equip, operate and maintain within the county a minor league baseball stadium project and to create a stadium authority to operate the project. Section 10 of this bill authorizes the stadium authority to recommend the imposition of a surcharge on the amount charged for any items or services related to such a project. If the surcharge is approved by a two-thirds majority vote of the governing body of the city in which the project is located, section 10 provides for the use of the proceeds of the surcharge. Section 10 also revises the membership of a stadium authority which operates such a project.

Under existing law, the board of trustees of a school district may issue certain general obligation bonds. At the time the bonds are issued, the board of trustees must establish in its debt service fund a reserve account for payment of the outstanding bonds of the school district. (NRS 350.020) Section 12 of this bill changes the amount of the reserves required to 10 percent of the outstanding principal or 25 percent, for

larger counties, and 50 percent, for smaller counties, of the amount of principal and interest payments due on all outstanding bonds of the school district in the next fiscal year, whichever is less.

Section 15 of this bill requires the City of North Las Vegas to develop certain plans relating to its water reclamation facility.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The governing body of a city whose population is 220,000 or more in a county whose population is 100,000 or more but less than 700,000 may by ordinance create a district to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment. Such an ordinance must be approved by a two-thirds majority of the members of the governing body.

2. The boundaries of a district created pursuant to subsection 1 must be as prescribed by the governing body in the ordinance creating the district, except that the boundaries must include only property that is located in or within 4 city blocks, as determined by the governing body, of a district described in NRS 268.780 to 268.785, inclusive.

3. An ordinance enacted pursuant to subsection 1 must impose a surcharge of $2 on the per night charge for the rental of a room in a hotel in the district that holds a nonrestricted gaming license. The surcharge must not be applied for any time during which the room is provided to a guest free of charge.

4. The proceeds of the surcharge imposed pursuant to this section must be retained by the city and must be used by the city solely to pay the cost of improving and maintaining publicly owned facilities for tourism and entertainment in the district or within 1 mile outside the boundaries of the district, except for a minor league baseball stadium project as defined in NRS 244A.0344. The proceeds of the surcharge must not be transferred to any other fund or account or used for any other purpose.

5. On or before January 15, 2030, the governing body of a city that has created a district pursuant to this section shall submit a report concerning the district to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must:

(a) Address, without limitation, the total amount collected from the surcharge imposed pursuant to this section and all the projects undertaken to improve and maintain the publicly owned facilities for tourism and entertainment in the district.

(b) Cover the period between the creation of the district until the end of the calendar year immediately preceding the submission of the report.

Sec. 2. **NRS 268.526 is hereby amended to read as follows:**

268.526 In addition to any other powers which it may now have, each city shall have the following powers:

1. To finance or acquire, whether by construction, purchase, gift, devise, lease or sublease, or any one or more of such methods, and to improve and equip one or more projects, or part thereof. Such projects, upon completion of such acquisition, shall be located within, or within 10 miles of, the city.

2. To finance, sell, lease or otherwise dispose of any or all of its projects upon such terms and conditions as the governing body considers advisable.

3. To issue revenue bonds for the purpose of financing or defraying the cost of acquiring, improving and equipping any project as set forth in NRS 268.556.

4. To secure payment of such bonds as provided in NRS 268.512 to 268.568, inclusive ~~[.]~~ ***, including, without limitation, from the proceeds of the surcharge imposed pursuant to NRS 244A.830.***

5. To take such actions as are necessary or useful in order to undertake, carry out, accomplish and otherwise implement the provisions of NRS 268.512 to 268.568, inclusive, including the adoption of resolutions, which may be introduced and adopted at the same special or regular meeting of the governing body and which shall become effective upon adoption.

~~[Section 1.]~~ ***Sec. 3.*** Chapter 271A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2, 3 and]~~ 4 **, 5 and 6** of this act.

~~[Sec. 2.]~~ ***Sec. 4. The governing body of a municipality:***

1. Shall require the review of each claim submitted pursuant to any contract or other agreement made with the governing body to provide any financing or reimbursement pursuant to NRS 271A.120, by an independent auditor.

2. Shall not, with respect to any district created on or after July 1, 2011, provide any financing or reimbursement pursuant to NRS 271A.120 for:

(a) Any legal fees, accounting fees, costs of insurance, fees for legal notices or costs to amend any ordinances.

(b) Any project that includes the relocation on or after July 1, 2011, to the district of any retail facilities of a retailer from another location outside of and within 3 miles of the boundary of the district. Each pledge of money pursuant to NRS 271A.070 shall be deemed to exclude any amounts attributable to any tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year by a retailer who, on or after July 1, 2011, relocates any of its retail facilities to the

district from another location outside of and within 3 miles of the boundary of the district.

~~[Sec. 3.]~~ ***Sec. 5. 1. Except as otherwise provided in subsection 2, a contractor or developer who enters into a contract*** ~~*[for original construction or a contract for benefited construction]*~~ ***to which the provisions of subsection 3 of NRS 271A.130 apply shall:***

(a) Advertise for at least 7 calendar days for bids on each subcontract for the performance of any portion of the contract;

(b) At least 2 business days before the first day of that advertisement, provide notice of that advertisement to the governing body of the municipality;

(c) Make available to all prospective bidders on the subcontract a written set of plans and specifications for the pertinent work;

(d) Provide public notice of the name and address of each person who submits a bid on the subcontract; and

(e) After closing the period for the solicitation of bids and receiving at least three timely and responsive bids, select any subcontractor from those timely and responsive bids that the contractor or developer, in his or her sole discretion, determines to be appropriate, except that the contractor or developer shall ensure that each subcontractor who will perform any portion of the contract is appropriately licensed pursuant to chapter 624 of NRS.

2. The provisions of subsection 1 do not apply to:

(a) Any contract which is awarded by a municipality; or

(b) Any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. A governing body of a municipality that receives a notice of an advertisement for bids pursuant to paragraph (b) of subsection 1:

(a) Shall, upon such receipt, post notice of the advertisement on an Internet website maintained by the municipality; and

(b) May otherwise provide notice of the advertisement to local trade organizations and the general public.

~~*[4. As used in this section:*~~

~~*(a) "Contract for benefited construction":*~~

~~*(1) Except as otherwise provided in subparagraphs (2) and (3), means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any property which is located within a district and which benefits from any infrastructure improvements paid for in whole or in part:*~~

~~*(I) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or*~~

~~*(II) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 ofNRS 271A.120.*~~

~~*(2) Except as otherwise provided in subparagraph (3) and unless the work is paid for in whole or in part with any public funding, does not include any:*~~

~~*(I) Contract or other agreement for the improvement, repair, demolition or reconstruction of any project;*~~

~~*(II) Contract or other agreement with the original tenant of any leased property for any improvement of the property which is to be undertaken more than 60 months after the property is first made available for lease; or*~~

~~*(III) Contract or other agreement for the improvement of any leased property made with any tenant of the property other than the original tenant.*~~

~~*(3) Does not include any contract for original construction.*~~

~~*(b) "Contract for original construction" means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:*~~

~~*(1) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or*~~

~~*(2) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.*~~

~~*(c) "Original tenant" means the first tenant of any leased property after the property is first made available for lease.]*~~

~~[Sec. 4.]~~ ***Sec. 6. 1. On or before September 1 of each year, the governing body of a municipality that creates a district before, on or after July 1, 2011, shall prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, an annual report containing:***

(a) A statement of the status of each project located or expected to be located in the district, and of any changes in that status since the last annual report.

(b) An assessment of the financial impact of the district on the provision of local governmental services, including, without limitation, services for police protection and fire protection.

2. If the governing body of a municipality creates a district before, on or after July 1, 2011, the Department of Taxation shall:

(a) On or before April 1 and October 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, and to the governing body of the municipality a semiannual report which states:

(1) The amount of revenue from the taxable sales made each month by each business within the district;

(2) To the extent that the pertinent information is available, the portion of that revenue which is attributable to persons who are not residents of this State;

(3) The amount of the wages paid each month by each business within the district; and

(4) The number of full-time and part-time employees employed each month by each business within the district.

(b) Require each business within the district to report to the Department of Taxation, at such times as the Department may specify on a form provided by the Department, such information as the Department determines to be necessary to carry out the provisions of paragraph (a).

3. Except as otherwise provided in subsection 2 or another specific statute, the Department of Taxation shall not disclose any information reported to the Department pursuant to subsection 2.

4. As used in this section, "taxable sales" means any sales that are taxable pursuant to chapter 372 of NRS.

~~[Sec. 5.]~~ ***Sec. 7.*** NRS 271A.080 is hereby amended to read as follows:

271A.080 The governing body of a municipality shall not adopt an ordinance pursuant to NRS 271A.070 unless:

1. If the ordinance:

(a) Creates a district, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within the district on or within the 120 days immediately preceding the date of the adoption of the ordinance; or

(b) Amends the boundaries of the district to add any additional area, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within that area on or within 120 days immediately preceding the date of the adoption of the ordinance.

2. The governing body has made a written finding at a public hearing that the project will benefit the district.

3. The governing body has made a written finding at a public hearing, based upon reports from independent consultants which were addressed to the governing body, to the board of county commissioners, if the governing body is not the board of county commissioners for the county in which the tourism ***improvement*** district is or will be located, and to the board of trustees of the school district in which the tourism improvement district is or will be located, as to whether the project and the financing thereof pursuant to this chapter will have a positive fiscal effect on the provision of local governmental services, after considering:

(a) The amount of the proceeds of all taxes and other governmental revenue projected to be received as a result of the properties and businesses expected to be located in the district;

(b) The use of any money proposed to be pledged pursuant to NRS 271A.070;

(c) Any increase in costs for the provision of local governmental services, including, without limitation, services for education, including operational and capital costs, and services for police protection and fire protection, as a result of the project and the development of land within the district; and

(d) Estimates of any increases in the proceeds from sales and use taxes collected by retailers located outside of the district and of any displacement of the proceeds from sales and use taxes collected by those retailers, as a result of the properties and businesses expected to be located in the district.

➥ ***The reports required from independent consultants pursuant to this subsection must be obtained from independent consultants selected by the governing body from a list of independent consultants provided by the Commission on Tourism. For the purposes of this subsection, the Commission shall, upon the request of a governing body, provide the governing body with a list of at least three qualified independent consultants, each of whom must be located outside of this State.***

4. The governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of trustees of the school district in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services, including education.

➥ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of trustees shall conduct a hearing regarding the fiscal effect on the school district, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body shall consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

5. If the governing body is not the board of county commissioners for the county in which the tourism ***improvement*** district is or will be located, the

governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of county commissioners in the county in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services.

➥ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of county commissioners may conduct a hearing regarding the fiscal effect on local governmental services, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body may consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

6. The governing body has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(a) As a result of the project:

(1) Retailers will locate their businesses as such in the district; and

(2) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district; and

(b) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

7. The Commission on Tourism has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to subsection 6 will be attributable to transactions with tourists who are not residents of this State.

8. The Governor has determined that the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 will contribute significantly to economic development and tourism in this State. Before making that determination, the Governor:

(a) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to subsection 4 by the school district in which the tourism improvement district is or will be located, and for that purpose may require

the Department of Education or the Department of Taxation, or both, to provide an appropriate fiscal report; and

(b) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the tourism improvement district is or will be located during the term of the use of any money pledged pursuant to NRS 271A.070. The payments may be provided pursuant to agreements with owners of property within the district authorized by NRS 271A.110 or from sources other than the owners of property within the district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the use of any money pledged pursuant to NRS 271A.070.

9. If any property within the boundaries of the district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, all of the governing bodies which created those districts have entered into an interlocal agreement providing for:

(a) The apportionment of any money pledged pursuant to NRS 271.650 and 271A.070 with respect to such property; and

(b) The priority of the application of that money between:

(1) Bonds issued pursuant to chapter 271 of NRS; and

(2) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

➥ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to chapter 271 of NRS to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

~~[Sec. 6.]~~ ***Sec. 8.*** NRS 271A.120 is hereby amended to read as follows:

271A.120 1. Except as otherwise provided in this section, if the governing body of a municipality adopts an ordinance pursuant to NRS 271A.070, the municipality may:

(a) Issue, at one time or from time to time, bonds or notes as special obligations under the Local Government Securities Law to finance or refinance projects for the benefit of the district. Any such bonds or notes may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(b) Enter into an agreement with one or more governmental entities or other persons to reimburse that entity or person for the cost of acquiring, improving or equipping, or any combination thereof, any project, which may contain such terms as are determined to be desirable by the governing body of the municipality, including the payment of reasonable interest and other financing costs incurred by such entity or other person. Any such reimbursements may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. Such an agreement is not subject to the limitations of subsection 1 of NRS 354.626 and may, at the option of the governing body, be binding on the municipality beyond the fiscal year in which it was made, only if the agreement pertains solely to one or more projects that are owned by the municipality or another governmental entity.

2. ***The governing body of a municipality shall not, with respect to any district created before, on or after July 1, 2011, provide any financing or reimbursement pursuant to this section:***

(a) Except as otherwise provided in this paragraph, to any governmental entity for any project within the district if any nongovernmental entity is or was entitled to receive any financing or reimbursement from the municipality pursuant to this section under the original financing agreements for the initial projects within the district. This paragraph does not prohibit the provision of such financing or reimbursement to:

(1) A school district; or

(2) A governmental entity that is or was entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

(b) To any person or other entity for any project within the district, other than a person or other entity that is or was entitled to receive such financing or reimbursement from the municipality under the original financing agreements for the initial projects within the district, without the consent of all the persons and other entities that were entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

3. Before the issuance of any bonds or notes pursuant to this section, the municipality must obtain the results of a feasibility study, commissioned by the municipality, which shows that a sufficient amount will be generated from money pledged pursuant to NRS 271A.070 to make timely payment on the bonds or notes, taking into account the revenue from any other revenue-producing projects also pledged for the payment of the bonds or notes, if any. A failure to make payments of any amounts due:

(a) With respect to any bonds or notes issued pursuant to subsection 1; or

(b) Under any agreements entered into pursuant to subsection 1,

➥ because of any insufficiency in the amount of money pledged pursuant to NRS 271A.070 to make those payments shall be deemed not to constitute a default on those bonds, notes or agreements.

~~[3.]~~ ***4.*** No bond, note or other agreement issued or entered into pursuant to this section may be secured by or payable from the general fund of the municipality, the power of the municipality to levy ad valorem property taxes, or any source other than any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. No bond, note or other agreement issued or entered into pursuant to this section may ever become a general obligation of the municipality or a charge against its general credit or taxing powers, nor may any such bond, note or other agreement become a debt of the municipality for purposes of any limitation on indebtedness.

~~[4.]~~ ***5.*** Any bond or note issued pursuant to this section, including any bond or note issued to refund any such bond or note, must mature on or before, and any agreement entered pursuant to this section must automatically terminate on or before, the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs.

~~[Sec. 7.]~~ ***Sec. 9.*** NRS 271A.130 is hereby amended to read as follows:

271A.130 1. Except as otherwise provided in this section ~~[,]~~ ***and section*** ~~*[3]*~~ ***5 of this act and*** notwithstanding any other law to the contrary, any contract or other agreement relating to or providing for the construction, improvement, repair, demolition, reconstruction, other acquisition, equipment, operation or maintenance of any project financed in whole or in part pursuant to this chapter is exempt from any law requiring competitive bidding or otherwise specifying procedures for the award of contracts for construction or other contracts, or specifying procedures for the procurement of goods or services. The governing body of the municipality shall require a quarterly report on the demography of the workers employed by any contractor or subcontractor for each such project.

2. The provisions of subsection 1 do not apply to any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. ~~[The provisions of NRS 338.010 to 338.090, inclusive, apply to]~~ ~~*[4.]*~~ ***Except as otherwise provided in subsection 5, a person who enters into*** any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:

(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120,

➥ ~~[~~regardless of whether the project is publicly or privately owned.~~]~~ ***shall include in the contract or other agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive. The governing body of the municipality, the contractor who is awarded the contract or enters into the agreement to perform the construction, improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body of the municipality had undertaken the project or had awarded the contract.***

4. The governing body of the municipality shall ensure that each contractor and developer to whom the provisions of section ~~*[3]*~~ ***5 of this act apply complies with those provisions.***

5. The provisions of subsection 3 do not apply to a contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any improvement to a building leased to a tenant that is paid for, in whole or in part, or which benefits from the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120 or pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120 and which is entered into after completion of the original construction:

(a) For any subsequent improvement to the building by the original tenant or a subsequent tenant.

(b) For any improvement to the building by the original tenant which is undertaken more than 60 months after the building is first made available for lease.

6. As used in this section:

(a) "Original construction" means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of a project paid for, in whole or in part, or which benefits:

(1) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(2) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.

(b) "Original tenant" means the first tenant of any leased property after the property is first made available for lease.

Sec. 10. **NRS 244A.830 is hereby amended to read as follows:**

244A.830 1. A board of county commissioners that adopts an ordinance imposing a fee pursuant to NRS 244A.810 shall create a stadium authority to ~~[operate]~~ ***assist in the operation of*** the minor league baseball stadium project. The stadium authority must consist of:

(a) ~~[One member]~~ ***Two members*** of the board of county commissioners appointed by the board;

(b) ~~[One member]~~ ***Three members*** from the governing body of ~~[each]~~ ***the*** city in ~~[the county whose population is 60,000 or more,]~~ ***which the minor league baseball stadium is located*** appointed by that governing body; and

(c) ~~[If the stadium authority enters into an agreement with an AA or AAA minor league baseball team pursuant to which the team agrees to play its home games in the stadium, two]~~ ***Two*** persons appointed by the owner of the ***minor league baseball*** team ~~[.]~~ ***that will play its home games in the stadium.***

2. The members of the stadium authority serve at the pleasure of the governmental entity or person who appointed them to serve in that capacity.

3. ~~[The stadium authority shall:~~

~~(a) Be responsible for the normal operations of the minor league baseball stadium project; and~~

~~(b) Enter into an agreement with the board of county commissioners that sets forth the specific rights, obligations and duties of the stadium authority regarding those operations.]~~ ***A meeting of the stadium authority must be scheduled if two or more members request a meeting of the stadium authority.***

4. The stadium authority may recommend to the governing body of the city in which the minor league baseball stadium is located that the governing body impose a surcharge on items or services related to the minor league baseball stadium project. The surcharge must be approved by a two-thirds majority of the governing body. Any proceeds from a surcharge imposed pursuant to this section must be paid to and collected by the city and must be used solely to pay the costs to acquire, lease, improve, equip, operate and maintain the minor league baseball stadium project, or to pay the principal of, interest on or other payments due with respect to bonds issued by the city to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof. The proceeds of the surcharge must not be transferred to any other fund or account or used for any other purpose.

Sec. 11. **NRS 279.636 is hereby amended to read as follows:**

279.636 1. An agency may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable:

(a) Exclusively from the income and revenues of the redevelopment projects financed with the proceeds of the bonds, or with those proceeds

together with financial assistance from the State or Federal Government in aid of the projects.

(b) Exclusively from the income and revenues of certain designated redevelopment projects whether or not they were financed in whole or in part with the proceeds of the bonds.

(c) In whole or in part from taxes allocated to, and paid into a special fund of, the agency pursuant to the provisions of NRS 279.674 to 279.685, inclusive.

(d) From its revenues generally.

(e) From any contributions or other financial assistance from the State or Federal Government.

(f) ***From the proceeds of the surcharge imposed pursuant to NRS 244A.830.***

(g) By any combination of these methods.

2. Any of the bonds may be additionally secured by a pledge of any revenue or by an encumbrance by mortgage, deed of trust or otherwise of any redevelopment project or other property of the agency or by a pledge of the taxes referred to in subsection 1.

3. Amounts payable in any manner permitted by this section may be additionally secured by a pledge of the full faith and credit of the community whose legislative body has declared the need for the agency to function. Such additional security may only be provided upon the approval of the majority of the voters voting on the question at a primary or general election or a special election called for that purpose. In its proposal to its voters the governing body shall define the area to be redeveloped, the primary source or sources of revenue first to be employed to retire the bonds and the maximum sum for which the city may pledge its full faith and credit in connection with the bonds to be issued for the project.

Sec. 12. **NRS 350.020 is hereby amended to read as follows:**

350.020 1. Except as otherwise provided by subsections 3 and 4, if a municipality proposes to issue or incur general obligations, the proposal must be submitted to the electors of the municipality at a special election called for that purpose or the next general municipal election or general state election.

2. Such a special election may be held:

(a) At any time, including, without limitation, on the date of a primary municipal election or a primary state election, if the governing body of the municipality determines, by a unanimous vote, that an emergency exists; or

(b) On the first Tuesday after the first Monday in June of an odd-numbered year.

➥ The determination made by the governing body is conclusive unless it is shown that the governing body acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the governing

body must be commenced within 15 days after the governing body's determination is final. As used in this subsection, "emergency" means any occurrence or combination of occurrences which requires immediate action by the governing body of the municipality to prevent or mitigate a substantial financial loss to the municipality or to enable the governing body to provide an essential service to the residents of the municipality.

3. If payment of a general obligation of the municipality is additionally secured by a pledge of gross or net revenue of a project to be financed by its issue, and the governing body determines, by an affirmative vote of two-thirds of the members elected to the governing body, that the pledged revenue will at least equal the amount required in each year for the payment of interest and principal, without regard to any option reserved by the municipality for early redemption, the municipality may, after a public hearing, incur this general obligation without an election unless, within 90 days after publication of a resolution of intent to issue the bonds, a petition is presented to the governing body signed by not less than 5 percent of the registered voters of the municipality. Any member elected to the governing body whose authority to vote is limited by charter, statute or otherwise may vote on the determination required to be made by the governing body pursuant to this subsection. The determination by the governing body becomes conclusive on the last day for filing the petition. For the purpose of this subsection, the number of registered voters must be determined as of the close of registration for the last preceding general election. The resolution of intent need not be published in full, but the publication must include the amount of the obligation and the purpose for which it is to be incurred. Notice of the public hearing must be published at least 10 days before the day of the hearing. The publications must be made once in a newspaper of general circulation in the municipality. When published, the notice of the public hearing must be at least as large as 5 inches high by 4 inches wide.

4. The board of trustees of a school district may issue general obligation bonds which are not expected to result in an increase in the existing property tax levy for the payment of bonds of the school district without holding an election for each issuance of the bonds if the qualified electors approve a question submitted by the board of trustees that authorizes issuance of bonds for a period of 10 years after the date of approval by the voters. If the question is approved, the board of trustees of the school district may issue the bonds for a period of 10 years after the date of approval by the voters, after obtaining the approval of the debt management commission in the county in which the school district is located and, in a county whose population is 100,000 or more, the approval of the oversight panel for school facilities established pursuant to NRS 393.092 in that county, if the board of trustees of the school district finds that the existing tax for debt service will at least

equal the amount required to pay the principal and interest on the outstanding general obligations of the school district and the general obligations proposed to be issued. The finding made by the board of trustees is conclusive in the absence of fraud or gross abuse of discretion. As used in this subsection, "general obligations" does not include medium-term obligations issued pursuant to NRS 350.087 to 350.095, inclusive.

5. At the time of issuance of bonds authorized pursuant to subsection 4, the board of trustees shall establish a reserve account in its debt service fund for payment of the outstanding bonds of the school district. The reserve account must be established and maintained in an amount at least equal to the lesser of ***:***

(a) For a school district located in a county whose population is 100,000 or more, 25 percent; and

(b) For a school district located in a county whose population is less than 100,000, 50 percent,

➥ ***of*** the amount of principal and interest payments due on all of the outstanding bonds of the school district in the next fiscal year or 10 percent of the outstanding principal amount of the outstanding bonds of the school district.

6. If the amount in the reserve account falls below the amount required by ~~[this]~~ subsection ~~[.]~~ ***5:***

(a) The board of trustees shall not issue additional bonds pursuant to subsection 4 until the reserve account is restored to the level required by ~~[this]~~ subsection ~~[.]~~ ***5;*** and

(b) The board of trustees shall apply all of the taxes levied by the school district for payment of bonds of the school district that are not needed for payment of the principal and interest on bonds of the school district in the current fiscal year to restore the reserve account to the level required pursuant to ~~[this]~~ subsection ~~[.]~~ ***5.***

~~[6.]~~ ***7.*** A question presented to the voters pursuant to subsection 4 may authorize all or a portion of the revenue generated by the debt rate which is in excess of the amount required:

(a) For debt service in the current fiscal year;

(b) For other purposes related to the bonds by the instrument pursuant to which the bonds were issued; and

(c) To maintain the reserve account required pursuant to subsection 5,

➥ to be transferred to the county school district's fund for capital projects established pursuant to NRS 387.328 and used to pay the cost of capital projects which can lawfully be paid from that fund. Any such transfer must not limit the ability of the school district to issue bonds during the period of voter authorization if the findings and approvals required by subsection 4 are obtained.

~~[7.]~~ ***8.*** A municipality may issue special or medium-term obligations without an election.

~~[Sec. 8.]~~ ***Sec. 13.*** NRS 372.750 is hereby amended to read as follows:

372.750 1. Except as otherwise provided in this section or NRS 360.247, ***or section ~~[4]~~ 6 of this act,*** it is a misdemeanor for any member of the Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular of them, set forth or disclosed in any return, or to permit any return or copy of a return, or any book containing any abstract or particulars of it to be seen or examined by any person not connected with the Department.

2. The Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to

NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against that person.

~~[Sec. 9.]~~ ***Sec. 14.*** NRS 374.755 is hereby amended to read as follows:

374.755 1. Except as otherwise provided in this section or NRS 360.247, ***or section*** ~~*[4]*~~ ***6 of this act,*** it is a misdemeanor for any member of the Nevada Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Department.

2. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, however, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose

other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Nevada Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against that person.

~~[Sec. 10.]~~ ***Sec. 15.*** **1. The City of North Las Vegas shall prepare and submit a plan for the routing of effluent that exits its water reclamation facility to the Clark County Water Reclamation District. The plan must include a consideration of the construction of a joint pipeline with the Clark County Water Reclamation District.**

2. If a joint pipeline is not financially feasible, the City of North Las Vegas shall:

(a) Provide for an environmental study of the impact of the water flow down the flood control channel on the quality of life and the value of adjacent homes.

(b) Develop a plan to manage the flood control channel. The plan must include, without limitation:

(1) A mechanism to ensure that the flood control channel is free from debris, waste and other elements that may cause an unpleasant smell or constitute an environmental, health or other community concerns.

(2) Maintenance of fencing along the flood control channel, including a detail of the repairs that must be made.

(3) An identification of the manner by which negative impacts, if any, of the flood control channel will be addressed, including, without limitation, the specific corrective actions to mitigate those negative impacts.

3. On or before February 1, 2013, the City of North Las Vegas shall submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature on the status of the plans prepared by the City pursuant to this section. The report must include, without limitation:

(a) The findings of the City concerning the financial feasibility of developing a joint pipeline.

(b) The status of the development of a joint pipeline, if any.

(c) If the City of North Las Vegas found that a joint pipeline is not financially feasible, a description of the plan to manage the flood control channel developed pursuant to subsection 2.

(d) The number of meetings held by the City of North Las Vegas to address the concerns of the community.

(e) The extent to which the City of North Las Vegas has adhered to commitments it has made to its residents for community development projects.

Sec. 16. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 11.]~~ ***Sec. 17.*** 1. This section and sections ~~[5 and 10]~~ **1, 7, 12, 15 and 16** of this act become effective upon passage and approval.

2. Sections ~~[1 to 4,]~~ **2 to 6,** inclusive, ~~[and 6 to 9,]~~ **8 to 11,** inclusive, **13 and 14** of this act become effective on July 1, 2011.

3. The authorization to impose a surcharge pursuant to NRS 244A.830, as amended by section 10 of this act, expires by limitation on June 30 of the later of the fiscal year that is 20 years after the fiscal year in which the ordinance imposing the surcharge is adopted or the fiscal year in which all bonds issued pursuant to NRS 268.526 and 279.636, as amended by sections 2 and 11 of this act, including, without limitation, any bonds issued to refund bonds issued pursuant to those sections, respectively, are fully paid as to all principal, interest and any other amounts due.

Assemblyman Bobzien moved that the Assembly adopt the report of the conference Committee concerning Assembly Bill No. 376.

Remarks by Assemblyman Bobzien.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 416.

The following Senate amendment was read:

Amendment No. 975.

AN ACT relating to energy; revising provisions governing the Solar Energy Systems Incentive Program; revising provisions governing the Wind

Energy Systems Demonstration Program; revising provisions governing the Waterpower Energy Systems Demonstration Program; revising provisions governing the payment of incentives to participants in the Solar Program and the Wind Program; revising the prospective expiration of the Wind Program and the Waterpower Program; providing for the prospective expiration of the Solar Program; requiring the Public Utilities Commission of Nevada to adopt certain regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880) **Section 2.1** of this bill establishes the statewide capacity goals for all energy systems which receive incentives pursuant to these programs and authorizes a utility to file the annual plan required for each of these programs as a single plan.

Section 4 of this bill revises provisions governing the incentives for participation in the Solar Energy Systems Incentive Program, requires the Public Utilities Commission of Nevada to review the incentives and authorizes the Commission to adjust the incentives not less frequently than annually. **Section 4** provides that the total amount of the incentive paid to a participant in the Solar Program with a solar energy system with a nameplate capacity of not more than 30 kilowatts must be paid upon proof that the participant has installed and energized the solar energy system, while the amount of the incentive paid to a participant with a solar energy system with a nameplate capacity of more than 30 kilowatts and not more than 500 kilowatts must be paid over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system. **Section 8.7** of this bill requires a participant in the Solar Program to participate in net metering.

Section 10 of this bill requires the Commission to adopt regulations relating to the Wind Program and to establish a system of incentives for participation in the Wind Program. **Section 10** further provides that the total amount of the incentive paid to a participant in the Wind Program with a nameplate capacity of not more than 500 kilowatts must be paid over time and based on the performance of and amount of electricity generated by the wind energy system. **Section 10.5** of this bill requires a participant in the Wind Program to participate in net metering.

Section 10.7 of this bill requires the Commission to provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts. **Section 18.5** of this bill requires a participant in the Waterpower Program to participate in net metering.

Existing law deems a provider of electric service to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system on certain retail customers. (NRS 704.4822) **Section 18.9** of this bill provides the same calculation for solar photovoltaic systems installed on the premises of the provider if certain conditions are met.

Existing law provides that the Wind Program and the Waterpower Program will expire on June 30, 2011. (Chapter 509, Statutes of Nevada 2007, p. 2999) This bill revises the prospective expiration date of these programs and provides that the Wind Program, the Waterpower Program and the Solar Program will expire on December 31, 2021.

Section 23.7 of this bill requires the Commission to open an investigatory docket to study the feasibility and advisability of establishing a feed-in tariff program for renewable energy systems and to submit a report of its findings from the investigatory docket to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.5. 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~~**]** **,** ***information*** relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources to cooperate with the Commissioner and the Authority:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Authority, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, the Director may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.

7. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 2. (Deleted by amendment.)

Sec. 2.1. Chapter 701B of NRS is hereby amended by adding thereto a new section to read as follows:

1. For purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, the Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration Program created by NRS 701B.820, the Public Utilities Commission of Nevada may approve solar energy systems, wind energy systems and waterpower energy systems totaling not more than 150 megawatts of capacity for all systems in this State for the period beginning on July 1, 2009, and ending on December 31, 2021. The Commission shall by regulation prescribe the capacity goals for each program.

2. The Public Utilities Commission of Nevada shall not authorize the payment of an incentive pursuant to:

(a) The Solar Energy Systems Incentive Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of solar energy systems and distributed generation systems to exceed $255,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2021.

(b) The Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of wind energy systems and waterpower energy systems to exceed $60,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2021. The Commission shall by regulation determine the total amount of incentives for each program.

3. A utility may file one combined annual plan which meets the requirements set forth in NRS 701B.230, 701B.610 and 701B.850. The Public Utilities Commission of Nevada shall review and approve any plans submitted pursuant to this subsection in accordance with the requirements of NRS 701B.230, 701B.610 and 701B.850.

4. As used in this section:

(a) "Distributed generation system" has the meaning ascribed to it in NRS 701B.055.

(b) "Utility" means a public utility that supplies electricity in this State.

Sec. 2.3. NRS 701B.040 is hereby amended to read as follows:

701B.040 "Category" means one of the categories of participation in the Solar Program as set forth in ~~[~~NRS 701B.240.~~]~~ ***regulations adopted by the Commission.***

Sec. 2.5. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that:

1. Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives, ~~[except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.]~~ ***and prescribe the period, which may be the same period covered for a utility's annual plan for carrying out and administering the Solar Program, for a utility to account for those incentives.***

2. Establish the requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

(f) Any other information required by the Commission.

3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems **.** ~~[pursuant to paragraph (b) of subsection 1 of NRS 701B.260.]~~

Sec. 3. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in ~~[each applicable category of:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property; and]~~ ***the Solar Program.***

2. The form and content of the master application.

3. The timeframe for accepting applications, including a period in which a utility must accept additional applications if a previously approved applicant fails to install and energize a solar energy system within the time allowed by NRS 701B.255.

Sec. 4. NRS 701B.220 is hereby amended to read as follows:

701B.220 ***1.*** In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program. ***The regulations must:***

(a) Provide that the total amount of the incentive paid to a participant for a solar energy system with a nameplate capacity of not more than 30 kilowatts must be paid upon proof that the participant has installed and energized the solar energy system;

(b) Provide that the amount of the incentive paid to a participant for a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts must be paid over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system;

(c) Provide for a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) For a participant with a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts, the period in which the participant will receive an incentive from the utility, which must not exceed 5 years and must not require a utility to make an incentive payment after December 31, 2021; and

(3) For a participant with a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts, that the payments of an incentive to the participant must be quarterly;

(d) Establish reporting requirements for each utility that participates in the Solar Program, which must include, without limitation, periodic reports of the average cost of the systems, the cost to the utility of carrying out the Solar Program and the effect of the Solar Program on the rates paid by the customers of the utility; and

(e) Provide for a decline over time in the amount of the incentives for participation in the Solar Program as the cost of installing solar energy systems decreases.

2. The Commission shall review the incentives for participation in the Solar Program and may adjust the amount of the incentives not less frequently than annually.

Sec. 5. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The ~~[Solar Program must have three]~~ ***Commission shall establish*** categories ~~[as follows:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property.]~~ ***for participation in the Solar Program, which must, at a minimum, distinguish between participants with a solar energy system with:***

(a) A nameplate capacity of not more than 30 kilowatts; and

(b) A nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~[Commission]~~ ***utility*** for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255; ***and***

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board **.** ~~[; and~~

~~(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands on experience of the solar energy system by the public.]~~

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.3. NRS 701B.255 is hereby amended to read as follows:

701B.255 1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility may select the applicant for participation in the Solar Program.

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility may approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

5. Upon receipt of the incentive claim form and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of the solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the solar energy system.]~~

Sec. 8.7. NRS 701B.280 is hereby amended to read as follows:

701B.280 ~~[If]~~ ***To be eligible for an incentive through the Solar Program,*** a solar energy system ~~[used by a participant in the Solar Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 8.9. NRS 701B.440 is hereby amended to read as follows:

701B.440 "Category" means one of the categories of participation in the Wind Demonstration Program as ~~[set forth in NRS 701B.580.]~~ ***established in regulation by the Commission.***

Sec. 9. NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The ~~[Program must have four]~~ ***Commission shall establish*** categories ~~[as follows:~~

~~(a) School property;~~

~~(b) Other public property;~~

~~(c) Private residential property and small business property; and~~

~~(d) Agricultural property.~~] ***for participation in the program.***

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590;

(b) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(c) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 10. NRS 701B.590 is hereby amended to read as follows:

701B.590 The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature ~~[of the installation of not less than 5 megawatts of wind energy systems in this State by 2012 and the goals for each category of the Program.]~~ ***as prescribed in section 2.1 of this act.***

2. A system of incentives that are based on rebates that decline as the ~~[capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~

~~3.]~~ ***cost of installing wind energy systems declines. The system must provide:***

(a) Incentives for wind energy systems with a nameplate capacity of not more than 500 kilowatts;

(b) That the amount of the incentive for a participant must be paid over time and be based on the performance of the wind energy system and the amount of electricity generated by the wind energy system; and

(c) For a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) The period in which the participant will receive an incentive from the utility, which must not exceed 5 years and that the utility is not required to make an incentive payment after December 31, 2021; and

(3) That the payments of an incentive to the participant must be made quarterly.

3. Reporting requirements for each utility that participates in the Program, which must include, without limitation, periodic reports of the

average cost of the systems, the cost to the utility of carrying out the Program and the effect of the Program on the rates paid by the customers of the utility.

4. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

5. The timeframe for accepting applications, including a period in which a utility must accept additional applications if a previously approved applicant fails to install and energize a wind energy system within the time allowed by NRS 701B.615.

Sec. 10.1. NRS 701B.615 is hereby amended to read as follows:

701B.615 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. **[**~~An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant~~

~~completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.]~~

Sec. 10.5. NRS 701B.650 is hereby amended to read as follows:

701B.650 ~~[If]~~ ***To be eligible for an incentive through the Wind Program,*** a wind energy system ~~[used by a participant in the Wind Demonstration Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 10.7. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must be designed to ~~[meet]~~ ***:***

(a) Meet the goal of the Legislature ~~[of the installation of not less than 500 kilowatts of waterpower energy systems in this State by 2012 and the goals for each category of the Program.]~~ ***as prescribed in section 2.1 of this act; and***

(b) Provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts.

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program ***.*** ~~[and the goals for each category of the Program are met.]~~ The rebates must be based on predicted energy savings.

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

4. The timeframe for accepting applications, including a period in which a utility must accept additional applications if a previously approved applicant fails to install and energize a waterpower energy system within the time allowed by NRS 701B.865.

Sec. 10.9. NRS 701B.850 is hereby amended to read as follows:

701B.850 1. ~~[On or before February 21, 2008, and on or before February 1 of each subsequent year,]~~ ***Each year on or before a date established by the Commission,*** each utility shall file with the Commission ~~[for approval an]~~ ***its*** annual plan for ~~[the administration and delivery of]~~ ***carrying out and administering*** the Waterpower Demonstration Program ***in its service area*** for the ~~[program year beginning July 1, 2008, and each subsequent year thereafter.]~~ ***immediately following 12-month period prescribed by the Commission.***

2. ~~[On or before July 1, 2008, and on or before each July 1 of each subsequent year, the]~~ ***The*** Commission shall ~~[review]~~ ***:***

(a) Review the annual plan for compliance with the requirements ~~[set forth]~~ ***established*** by regulation of the Commission ~~[.]~~ ***; and***

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 18.1. NRS 701B.865 is hereby amended to read as follows:

701B.865 1. An applicant who wishes to participate in the Waterpower Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Waterpower Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of the waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally~~

~~determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of the waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of the waterpower energy system.~~**]**

Sec. 18.5. NRS 701B.880 is hereby amended to read as follows:

701B.880 **[**~~If~~**]** ***To be eligible for an incentive through the Waterpower Demonstration Program,*** the waterpower energy system **[**~~used by a participant in the Waterpower Demonstration Program meets~~**]** ***must meet*** the requirements **[**~~of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate~~**]** ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 18.7. NRS 701B.924 is hereby amended to read as follows:

701B.924 1. The State Public Works Board shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in **[**~~one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2)~~**]** ***:***

(1) The Renewable Energy School Pilot Program created by NRS 701B.350; or

[~~(3)~~**]** ***(2)*** An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this

section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in ~~[one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2)~~] *:*

(1) The Renewable Energy School Pilot Program created by NRS 701B.350; or

~~[(3)~~] ***(2)*** An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in ~~[one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2)~~] *:*

(1) The Renewable Energy School Pilot Program created by NRS 701B.350; or

~~[(3)~~] ***(2)*** An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;

(b) Provisions requiring that each contractor and subcontractor employed on each such project:

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 18.9. NRS 704.7822 is hereby amended to read as follows:

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 or 704.78213, a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer ~~[.]~~ ***or provider;*** and

2. On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer ***or provider*** on that premises.

Sec. 19. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in ~~[one or more of the following programs:~~

~~(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(II) The~~**]** ***the*** Renewable Energy School Pilot Program created by NRS 701B.350**.** ~~[~~**]**~~;~~

~~(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or~~

~~(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.]~~

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;

(3) Geothermal energy;

(4) Solar energy;

(5) Waterpower; and

(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 20. Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. ***Sections 69, 72 to 75, inclusive, and section 94 of this act expire by limitation on December 31, 2012.***

3. Sections 62 to ~~[106,]~~ ***68,*** inclusive, ***70, 71, 77 to 82, inclusive, 85 to 94, inclusive, and 95 to 105, inclusive,*** of this act expire by limitation on ~~[June 30, 2011.]~~ ***December 31, 2021.***

Sec. 21. Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on ~~[June 30, 2011.]~~ ***December 31, 2021.***

Sec. 22. Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.51, 1.85, 1.87, 1.92, 1.93, 1.95, 4.3 to 9, inclusive, and 19.4 of this act expire by limitation on ~~[June 30, 2011.~~

~~3. Sections 1.53 and 19.8 of this act become effective on July 1, 2011.]~~ ***December 31, 2021.***

Sec. 23. (Deleted by amendment.)

Sec. 23.3. 1. NRS 701B.010, 701B.020, 701B.030, 701B.040, 701B.050, 701B.055, 701B.070, 701B.080, 701B.090, 701B.150, 701B.160, 701B.170, 701B.180, 701B.200, 701B.210, 701B.220, 701B.230, 701B.240, 701B.250, 701B.255, 701B.265, 701B.280 and 701B.290 are hereby repealed.

2. NRS 701B.060, 701B.100, 701B.110, 701B.120, 701B.130, 701B.140, 701B.260 and sections 1.53 and 19.8 of chapter 321, Statutes of Nevada 2009, at pages 1372 and 1408, respectively, are hereby repealed.

Sec. 23.5. The Public Utilities Commission of Nevada shall adopt regulations to carry out the amendatory provisions of this act on or before July 1, 2012. The regulations must:

1. Provide for the transition to the performance-based incentive required by NRS 701B.220, as amended by section 4 of this act, NRS 701B.590, as amended by section 10 of this act and NRS 701B.840, as amended by section 10.7 of this act, for the applicable participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program.

2. Require that the capacity allocated for a participant in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Demonstration Program who fails to install and energize the energy system within 12 months after the date on which the applicant is selected for participation in the respective program must be made available to applicants who apply for participation in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Demonstration Program on or after January 1, 2013.

Sec. 23.7. **1. As soon as practicable after the effective date of this section, the Public Utilities Commission of Nevada shall, to the extent money is available for this purpose, open an investigatory docket to study, examine and review the feasibility and advisability of establishing a feed-in tariff program for renewable energy systems in this State.**

2. The investigatory docket must include, without limitation:

(a) An evaluation of existing feed-in tariff programs in other jurisdictions and whether such programs or components of such

programs would be appropriate models for a feed-in tariff program in this State;

(b) An evaluation of different mechanisms for establishing prices for the purchase and sale of electricity pursuant to a feed-in tariff program;

(c) Consideration of issues relating to the integration of a feed-in tariff program with existing programs for renewable energy in this State, including, without limitation, the renewable energy programs established pursuant to chapter 701B of NRS;

(d) Consideration of the role of a feed-in tariff program in helping providers of electric service meet the portfolio standard established pursuant to NRS 704.7821; and

(e) Consideration of the short-term and long-term costs and savings associated with a feed-in tariff program for retail customers of providers of electric service in this State.

3. The following parties may participate in the investigatory docket:

(a) Each provider of electric service;

(b) The Regulatory Operations Staff of the Commission;

(c) The Consumer's Advocate and the Bureau of Consumer Protection in the Office of the Attorney General; and

(d) Any other interested parties.

4. On or before October 1, 2012, the Commission shall submit a written report of its findings and recommendations from the investigatory docket to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

5. If the Commission's report contains any recommendations for the establishment of a feed-in tariff program for renewable energy systems in this State, the report must include, without limitation, recommendations regarding:

(a) The legislation that would be necessary to establish the feed-in tariff program; and

(b) The procedures and mechanisms that would be necessary to implement the feed-in tariff program.

6. As used in this section, "provider of electric service" has the meaning ascribed to it in NRS 704.7808.

Sec. 24. (Deleted by amendment.)

Sec. 25. 1. This section and sections 8.3, 10.1, 18.1, 20 to 23, inclusive, ~~[and]~~ 23.5 **and 23.7** of this act become effective upon passage and approval.

2. Sections 1, 2 to 8, inclusive, 8.7 to 10, inclusive, 10.5 to 18, inclusive, 18.5, 18.9 and 24 of this act become effective upon passage and approval for the purpose of adopting regulations, and on January 1, 2013, for all other purposes.

3. Subsection 2 of section 23.3 of this act becomes effective on January 1, 2013.

4. Section 1.5, 18.7, 19 and subsection 1 of section 23.3 of this act become effective on January 1, 2022.

LEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA

701B.010 Applicability.

701B.020 Definitions.

701B.030 "Applicant" defined.

701B.040 "Category" defined.

701B.050 "Commission" defined.

701B.055 "Distributed generation system" defined.

701B.060 "Institution of higher education" defined.

701B.070 "Owned, leased or occupied" defined.

701B.080 "Participant" defined.

701B.090 "Person" defined.

701B.100 "Program year" means the period of July 1 to June 30 of the following year.

701B.110 "Public and other property" defined.

701B.120 "Public entity" defined.

701B.130 "School property" defined.

701B.140 "Small business" defined.

701B.150 "Solar energy system" defined.

701B.160 "Solar Program" defined.

701B.170 "Task Force" defined.

701B.180 "Utility" defined.

701B.200 Regulations: Establishment of incentives and requirements for utility's annual plan; exceptions; recovery of costs by utility.

701B.210 Regulations: Establishment of qualifications and requirements for participation; form and content of utility's master application.

701B.220 Regulations: Establishment of incentives for participation.

701B.230 Duty of utility to file annual plan; review and approval of annual plan by Commission; recovery of costs by utility.

701B.240 Creation of Solar Program; categories of participation; eligibility requirements.

701B.250 Application to participate; review of application by utility.

701B.255 Procedure for selection and notification of participants; authorization to install and energize solar energy system; submission of

incentive claim form; determination of amount of incentive; withdrawal of participant; forfeiture of incentive.

701B.260 Capacity allocated to each category; reallocation of capacity; limitations on incentives.

701B.265 Installation of solar energy system deemed public work under certain circumstances.

701B.280 Participation in net metering.

701B.290 Issuance of portfolio energy credits.

Section 1.53 of chapter 321, Statutes of Nevada 2009, at page 1372:

Sec. 1.53. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation:

(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 ~~[and the Wind Energy Systems Demonstration Program created pursuant to 701B.580,]~~ including, without limitation, information relating to:

(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;

(2) The use of carbon-based energy in residential and commercial applications due to participation in the ~~[Programs;]~~ ***Program;*** and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the ~~[Programs;]~~ ***Program;*** and

(b) Information relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources to cooperate with the Commissioner and the Authority:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Authority, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. Carry out all other directives concerning energy that are prescribed by the Governor.

Section 19.8 of chapter 321, Statutes of Nevada 2009, at page 1408:

Sec. 19.8. Section 19.4 of this act is hereby amended to read as follows:

Sec. 19.4. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of each local government shall, within 60 days after the effective date of this section, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240; ***or***

(II) The Renewable Energy School Pilot Program created by NRS 701B.350**.** ~~[~~~;~~

~~(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or~~

~~(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.]~~

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;

(3) Geothermal energy;
(4) Solar energy;
(5) Waterpower; and
(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Assemblyman Atkinson moved that the Assembly concur in the Senate Amendment No. 975 to Assembly Bill No. 416.

Motion carried.

The following Senate amendment was read:

Amendment No. 989.

AN ACT relating to energy; revising provisions governing the Solar Energy Systems Incentive Program; revising provisions governing the Wind Energy Systems Demonstration Program; revising provisions governing the Waterpower Energy Systems Demonstration Program; revising provisions governing the payment of incentives to participants in the Solar Program and the Wind Program; revising the prospective expiration of the Wind Program and the Waterpower Program; providing for the prospective expiration of the Solar Program; requiring the Public Utilities Commission of Nevada to adopt certain regulations; **revising certain provisions governing certain energy-related tax incentives; revising certain provisions relating to plans filed by certain utilities; authorizing a utility to recover certain costs under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880) **Section 2.1** of this bill establishes the statewide capacity goals for all energy systems which receive incentives pursuant to these programs and authorizes a utility to file the annual plan required for each of these programs as a single plan.

Section 4 of this bill revises provisions governing the incentives for participation in the Solar Energy Systems Incentive Program, requires the Public Utilities Commission of Nevada to review the incentives and authorizes the Commission to adjust the incentives not less frequently than annually. **Section 4** provides that the total amount of the incentive paid to a participant in the Solar Program with a solar energy system with a nameplate capacity of not more than 30 kilowatts must be paid upon proof that the

participant has installed and energized the solar energy system, while the amount of the incentive paid to a participant with a solar energy system with a nameplate capacity of more than 30 kilowatts and not more than 500 kilowatts must be paid over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system. **Section 8.7** of this bill requires a participant in the Solar Program to participate in net metering.

Section 10 of this bill requires the Commission to adopt regulations relating to the Wind Program and to establish a system of incentives for participation in the Wind Program. **Section 10** further provides that the total amount of the incentive paid to a participant in the Wind Program with a nameplate capacity of not more than 500 kilowatts must be paid over time and based on the performance of and amount of electricity generated by the wind energy system. **Section 10.5** of this bill requires a participant in the Wind Program to participate in net metering.

Section 10.7 of this bill requires the Commission to provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts. **Section 18.5** of this bill requires a participant in the Waterpower Program to participate in net metering.

Existing law deems a provider of electric service to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system on certain retail customers. (NRS 704.4822) **Section 18.9** of this bill provides the same calculation for solar photovoltaic systems installed on the premises of the provider if certain conditions are met.

Existing law provides that the Wind Program and the Waterpower Program will expire on June 30, 2011. (Chapter 509, Statutes of Nevada 2007, p. 2999) This bill revises the prospective expiration date of these programs and provides that the Wind Program, the Waterpower Program and the Solar Program will expire on December 31, 2021.

Section 18.75 of this bill makes certain information relating to a contract lease or agreement between a utility and another person for the purchase of power confidential and prohibits the disclosure of such information.

Existing law requires each utility which supplies electricity in this State to submit to the Commission every third year a plan to increase its supply of electricity or decrease the demands made on its system by its customers (NRS 704.741) Section 18.8 of this bill revises the content of those plans and requires the Commission to allow the utility to recover certain costs for siting, developing and permitting associated with transmission facilities and transmission corridor activities under certain circumstances.

Existing law requires a person who wishes to obtain a permit for a utility facility to file certain applications with the Commission if a federal agency is required to conduct an environmental analysis of the proposed utility facility. (NRS 704.870) Sections 18.95 and 18.97 of this bill require such a person to file a notice with the Commission not later than the date on which the person files with the appropriate federal agency.

Sections 1.7 and 1.9 of this bill revise provisions governing certain energy-related tax incentives to provide that certain facilities that generate electricity from geothermal energy are eligible for certain partial abatements of taxes.

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 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~~**]** **,** ***information*** relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources to cooperate with the Commissioner and the Authority:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Authority, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, the Director may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.

7. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 1.7. **NRS 701A.340 is hereby amended to read as follows:**

701A.340 1. "Renewable energy" means:

(a) Biomass;

(b) Fuel cells;

(c) ***Geothermal energy;***

(d) Solar energy;

~~[(d)]~~ ***(e)*** Waterpower; or

~~[(c)]~~ ***(f)*** Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel ~~[, geothermal energy]~~ or nuclear energy.

Sec. 1.9. **NRS 701A.365 is hereby amended to read as follows:**

701A.365 1. Except as otherwise provided in subsection 2, the Commissioner shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, if 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.

2. ~~[The Commissioner 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 may, if the Commissioner determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

Sec. 2. (Deleted by amendment.)

Sec. 2.1. Chapter 701B of NRS is hereby amended by adding thereto a new section to read as follows:

1. For purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, the Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration Program created by NRS 701B.820, the Public Utilities Commission of Nevada may approve solar energy systems, wind energy systems and waterpower energy systems totaling not more than 150 megawatts of capacity for all systems in this State for the period beginning on July 1, 2009, and ending on December 31, 2021. The Commission shall by regulation prescribe the capacity goals for each program.

2. The Public Utilities Commission of Nevada shall not authorize the payment of an incentive pursuant to:

(a) The Solar Energy Systems Incentive Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of solar energy systems and distributed generation systems to exceed $255,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2021.

(b) The Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in

this State for the installation of wind energy systems and waterpower energy systems to exceed $60,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2021. The Commission shall by regulation determine the total amount of incentives for each program.

3. A utility may file one combined annual plan which meets the requirements set forth in NRS 701B.230, 701B.610 and 701B.850. The Public Utilities Commission of Nevada shall review and approve any plans submitted pursuant to this subsection in accordance with the requirements of NRS 701B.230, 701B.610 and 701B.850.

4. As used in this section:

(a) "Distributed generation system" has the meaning ascribed to it in NRS 701B.055.

(b) "Utility" means a public utility that supplies electricity in this State.

Sec. 2.3. NRS 701B.040 is hereby amended to read as follows:

701B.040 "Category" means one of the categories of participation in the Solar Program as set forth in ~~[NRS 701B.240.]~~ ***regulations adopted by the Commission.***

Sec. 2.5. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that:

1. Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives, ~~[except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.]~~ ***and prescribe the period, which may be the same period covered for a utility's annual plan for carrying out and administering the Solar Program, for a utility to account for those incentives.***

2. Establish the requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all

applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

(f) Any other information required by the Commission.

3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems **.** ~~**[**pursuant to paragraph (b) of subsection 1 of NRS 701B.260.**]**~~

Sec. 3. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in ~~**[**each applicable category of:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property; and~~**]** ***the Solar Program.***

2. The form and content of the master application.

3. The timeframe for accepting applications, including a period in which a utility must accept additional applications if a previously approved applicant fails to install and energize a solar energy system within the time allowed by NRS 701B.255.

Sec. 4. NRS 701B.220 is hereby amended to read as follows:

701B.220 ***1.*** In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program. ***The regulations must:***

(a) Provide that the total amount of the incentive paid to a participant for a solar energy system with a nameplate capacity of not more than 30 kilowatts must be paid upon proof that the participant has installed and energized the solar energy system;

(b) Provide that the amount of the incentive paid to a participant for a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts must be paid over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system;

(c) Provide for a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) For a participant with a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts, the period in which the participant will receive an incentive from the utility, which must not exceed 5 years and must not require a utility to make an incentive payment after December 31, 2021; and

(3) For a participant with a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts, that the payments of an incentive to the participant must be quarterly;

(d) Establish reporting requirements for each utility that participates in the Solar Program, which must include, without limitation, periodic reports of the average cost of the systems, the cost to the utility of carrying out the Solar Program and the effect of the Solar Program on the rates paid by the customers of the utility; and

(e) Provide for a decline over time in the amount of the incentives for participation in the Solar Program as the cost of installing solar energy systems decreases.

2. The Commission shall review the incentives for participation in the Solar Program and may adjust the amount of the incentives not less frequently than annually.

Sec. 5. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The ~~[Solar Program must have three]~~ ***Commission shall establish*** categories ~~[as follows:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property.]~~ ***for participation in the Solar Program, which must, at a minimum, distinguish between participants with a solar energy system with:***

(a) A nameplate capacity of not more than 30 kilowatts; and

(b) A nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~[Commission]~~ ***utility*** for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255; ***and***

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board ***.*** ~~[; and~~

~~(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands on experience of the solar energy system by the public.~~**]**

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.3. NRS 701B.255 is hereby amended to read as follows:

701B.255 1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility may select the applicant for participation in the Solar Program.

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility may approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

5. Upon receipt of the incentive claim form and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of the solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. **[**~~An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the~~

~~date on which the applicant completes the installation of the solar energy system.]~~

Sec. 8.7. NRS 701B.280 is hereby amended to read as follows:

701B.280 ~~[If]~~ ***To be eligible for an incentive through the Solar Program,*** a solar energy system ~~[used by a participant in the Solar Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 8.9. NRS 701B.440 is hereby amended to read as follows:

701B.440 "Category" means one of the categories of participation in the Wind Demonstration Program as ~~[set forth in NRS 701B.580.]~~ ***established in regulation by the Commission.***

Sec. 9. NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The ~~[Program must have four]~~ ***Commission shall establish*** categories ~~[as follows:~~

~~(a) School property;~~

~~(b) Other public property;~~

~~(c) Private residential property and small business property; and~~

~~(d) Agricultural property.]~~ ***for participation in the program.***

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590;

(b) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(c) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 10. NRS 701B.590 is hereby amended to read as follows:

701B.590 The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature ~~[of the installation of not less than 5 megawatts of wind energy systems in this State by 2012 and the goals for each category of the Program.]~~ ***as prescribed in section 2.1 of this act.***

2. A system of incentives that are based on rebates that decline as the ~~[capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~

~~3.]~~ ***cost of installing wind energy systems declines. The system must provide:***

(a) Incentives for wind energy systems with a nameplate capacity of not more than 500 kilowatts;

(b) That the amount of the incentive for a participant must be paid over time and be based on the performance of the wind energy system and the amount of electricity generated by the wind energy system; and

(c) For a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) The period in which the participant will receive an incentive from the utility, which must not exceed 5 years and that the utility is not required to make an incentive payment after December 31, 2021; and

(3) That the payments of an incentive to the participant must be made quarterly.

3. Reporting requirements for each utility that participates in the Program, which must include, without limitation, periodic reports of the average cost of the systems, the cost to the utility of carrying out the Program and the effect of the Program on the rates paid by the customers of the utility.

4. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

5. The timeframe for accepting applications, including a period in which a utility must accept additional applications if a previously approved applicant fails to install and energize a wind energy system within the time allowed by NRS 701B.615.

Sec. 10.1. NRS 701B.615 is hereby amended to read as follows:

701B.615 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.]~~

Sec. 10.5. NRS 701B.650 is hereby amended to read as follows:

701B.650 ~~[If]~~ ***To be eligible for an incentive through the Wind Program,*** a wind energy system ~~[used by a participant in the Wind Demonstration Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 10.7. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must be designed to ~~[meet]~~ ***:***

(a) Meet the goal of the Legislature ~~[of the installation of not less than 500 kilowatts of waterpower energy systems in this State by 2012 and the goals for each category of the Program.]~~ ***as prescribed in section 2.1 of this act; and***

(b) Provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts.

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program **.** ~~[and the goals for each category of the Program are met.]~~ The rebates must be based on predicted energy savings.

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

4. The timeframe for accepting applications, including a period in which a utility must accept additional applications if a previously approved applicant fails to install and energize a waterpower energy system within the time allowed by NRS 701B.865.

Sec. 10.9. NRS 701B.850 is hereby amended to read as follows:

701B.850 1. ~~[On or before February 21, 2008, and on or before February 1 of each subsequent year,]~~ ***Each year on or before a date established by the Commission,*** each utility shall file with the Commission ~~[for approval an]~~ ***its*** annual plan for ~~[the administration and delivery of]~~ ***carrying out and administering*** the Waterpower Demonstration Program ***in its service area*** for the ~~[program year beginning July 1, 2008, and each subsequent year thereafter.]~~ ***immediately following 12-month period prescribed by the Commission.***

2. ~~[On or before July 1, 2008, and on or before each July 1 of each subsequent year, the]~~ ***The*** Commission shall ~~[review]~~ ***:***

(a) Review the annual plan for compliance with the requirements ~~[set forth]~~ ***established*** by regulation of the Commission ~~[.]~~ ***; and***

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 18.1. NRS 701B.865 is hereby amended to read as follows:

701B.865 1. An applicant who wishes to participate in the Waterpower Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Waterpower Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of the waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of the waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of the waterpower energy system.]~~

Sec. 18.5. NRS 701B.880 is hereby amended to read as follows:

701B.880 ~~[If]~~ ***To be eligible for an incentive through the Waterpower Demonstration Program,*** the waterpower energy system ~~[used by a participant in the Waterpower Demonstration Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 18.7. NRS 701B.924 is hereby amended to read as follows:

701B.924 1. The State Public Works Board shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this

section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in ~~[one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2)]~~ ***:***

(1) The Renewable Energy School Pilot Program created by NRS 701B.350; or

~~[(3)]~~ ***(2)*** An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in ~~[one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2)]~~ ***:***

(1) The Renewable Energy School Pilot Program created by NRS 701B.350; or

~~[(3)]~~ ***(2)*** An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in ~~[one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2)]~~ ***:***

(1) The Renewable Energy School Pilot Program created by NRS 701B.350; or

~~[(3)]~~ ***(2)*** An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;

(b) Provisions requiring that each contractor and subcontractor employed on each such project:

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council

pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 18.75. **NRS 703.190 is hereby amended to read as follows:**

703.190 1. Except as otherwise provided in this section, all biennial reports, records, proceedings, papers and files of the Commission must be open at all reasonable times to the public.

2. The Commission shall, upon receipt of a request from a public utility, alternative seller, provider of discretionary natural gas service or provider of new electric resources, prohibit the disclosure of ~~[any]~~ ***:***

(a) Any applicable information in the possession of the Commission or an affected governmental entity concerning the public utility, alternative seller, provider of discretionary natural gas service or provider of new electric resources, if the Commission determines that the information would otherwise be entitled to protection as a trade secret or confidential commercial information pursuant to NRS 49.325 or 600A.070 or Rule 26(c)(7) of the Nevada Rules of Civil Procedure. Upon making such a determination, the Commission shall establish the period during which the information must not be disclosed and a procedure for protecting the information during and after that period.

(b) Any information in the possession of the Commission or an affected governmental entity concerning a contract, lease or agreement between a public utility and another person for the purchase of power. Such information is proprietary and constitutes a trade secret. The Commission shall not disclose the information except pursuant to an agreement between the public utility and the other party to the contract, lease or agreement or as ordered by a court of competent jurisdiction.

Sec. 18.77. **NRS 703.196 is hereby amended to read as follows:**

703.196 1. ~~[Any]~~ ***Except as otherwise provided in paragraph (b) of subsection 2 of NRS 703.190, any*** books, accounts, records, minutes, papers

and property of any public utility, alternative seller, provider of discretionary natural gas service or provider of new electric resources that are subject to examination pursuant to NRS 703.190 or 703.195 and are made available to the Commission, any officer or employee of the Commission, an affected governmental entity, any officer or employee of an affected governmental entity, the Bureau of Consumer Protection in the Office of the Attorney General or any other person under the condition that the disclosure of such information to the public be withheld or otherwise limited, must not be disclosed to the public unless the Commission first determines that the disclosure is justified.

2. The Commission shall take such actions as are necessary to protect the confidentiality of such information, including, without limitation:

(a) Granting such protective orders as it deems necessary; and

(b) Holding closed hearings to receive or examine such information.

3. If the Commission closes a hearing to receive or examine such information, it shall:

(a) Restrict access to the records and transcripts of such hearings without the prior approval of the Commission or an order of a court of competent jurisdiction authorizing access to the records or transcripts; and

(b) Prohibit any participant at such a hearing from disclosing such information without the prior authorization of the Commission.

4. A representative of the Regulatory Operations Staff of the Commission and the Bureau of Consumer Protection:

(a) May attend any closed hearing held pursuant to this section; and

(b) Have access to any records or other information determined to be confidential pursuant to this section.

5. The Commission shall consider in an open meeting whether the information reviewed or examined in a closed hearing may be disclosed without revealing the confidential subject matter of the information. To the extent the Commission determines the information may be disclosed, the information must become a part of the records available to the public. Information which the Commission determines may not be disclosed must be kept under seal.

Sec. 18.8. **NRS 704.741 is hereby amended to read as follows:**

704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation:

(a) Prescribe the contents of such a plan, including, but not limited to, the methods or formulas which are used by the utility to:

(1) Forecast the future demands; and

(2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them; and

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility to include in its plan:

(a) An energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel and which includes, without limitation, the use of new solar thermal energy sources; and

(b) A comparison of a diverse set of scenarios of the best combination of sources of supply to meet the demands or the best methods to reduce the demands, which must include at least one scenario of low carbon intensity.

4. The Commission shall require the utility to include in its plan a plan for construction or expansion of transmission facilities to serve renewable energy zones ~~[and to]~~ ***that will*** facilitate the utility in meeting the portfolio standard established by NRS 704.7821 ~~[.]~~ ***or support the construction of renewable energy facilities without regard to the location of any purchaser of energy from any of those facilities.***

5. ***The Commission shall require the utility to include in its plan a plan for transmission facilities that are anticipated to be necessary to serve either:***

(a) The transmission needs of the utility; or

(b) Any renewable energy facility that requests interconnection with the utility and delivers energy to purchasers located outside of this State or outside of the service area of the utility.

6. The plan required by subsection 5 may proposed the siting, permitting or construction of a transmission facility or corridor in phases, including, without limitation, components of siting, acquisition, permitting and construction.

7. Notwithstanding the provisions of this section, if the proposed facilities are not subject to a resource plan filing requirement or if the utility is required pursuant to federal law to commit to such facilities within a time that does not support a resource plan filing and decision of the Commission, the Commission shall allow a utility to recover reasonable and prudent expenses for siting, development and permitting of transmission facilities or transmission corridor activities that are conducted without inclusion in a plan submitted pursuant to this section. The prudency and reasonableness of these expenses must be determined by the Commission in a general rate case brought pursuant to NRS 704.110.

8. As used in this section:

(a) "Carbon intensity" means the amount of carbon by weight emitted per unit of energy consumed.

(b) "Renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

Sec. 18.85. **NRS 704.751 is hereby amended to read as follows:**

704.751 1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting the plan as filed or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and

(b) Within 180 days for all portions of the plan not described in paragraph (a).

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting the amendment as filed or specifying any portions of the amendment it deems to be inadequate within 135 days of the filing of the amendment.

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

4. The Commission may accept a transmission plan submitted pursuant to ~~[subsection]~~ ***subsections*** 4 ***and 5*** of NRS 704.741 for a renewable energy zone if the Commission determines that the construction or expansion of transmission facilities would facilitate the utility meeting the portfolio standard, as defined in NRS 704.7805.

5. The Commission shall adopt regulations establishing the criteria for determining the adequacy of a transmission plan submitted pursuant to ~~[subsection]~~ ***subsections*** 4 ***and 5*** of NRS 704.741.

Sec. 18.9. NRS 704.7822 is hereby amended to read as follows:

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 or 704.78213, a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer ~~[,]~~ ***or provider;*** and

2. On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer ***or provider*** on that premises.

Sec. 18.95. **NRS 704.870 is hereby amended to read as follows:**

704.870 1. Except as otherwise provided in subsection 2, a person who wishes to obtain a permit for a utility facility must file with the Commission an application, in such form as the Commission prescribes, containing:

(a) A description of the location and of the utility facility to be built thereon;

(b) A summary of any studies which have been made of the environmental impact of the facility; and

(c) A description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits or detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility.

➥ A copy or copies of the studies referred to in paragraph (b) must be filed with the Commission and be available for public inspection.

2. If a person wishes to obtain a permit for a utility facility and a federal agency is required to conduct an environmental analysis of the proposed utility facility, the person must:

(a) Not later than the date on which the person files with the appropriate federal agency an application for approval for the construction of the utility facility, file with the Commission and each other permitting entity ~~[an application,]~~ ***a notice*** in such a form as the Commission or other permitting entity prescribes ~~;~~ ***;*** ~~[, containing:~~

~~(1) A general description of the proposed utility facility; and~~

~~(2) A summary of any studies which the applicant anticipates will be made of the environmental impact of the facility;]~~ and

(b) Not later than 30 days after the issuance by the appropriate federal agency of ~~[a]~~ ***either the*** final environmental assessment or ***final*** environmental impact statement ***, but not the record of decision or similar document,*** relating to the construction of the utility facility:

(1) File with the Commission an ~~[amended]~~ application that complies with the provisions of subsection 1; and

(2) File with each other permitting entity an ~~[amended]~~ application for a permit, license or other approval for the construction of the utility facility.

3. A copy of each application ~~[and amended application]~~ filed with the Commission must be filed with the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

4. Each application ~~[and amended application]~~ filed with the Commission must be accompanied by:

(a) Proof of service of a copy of the application ~~[or amended application]~~ on the clerk of each local government in the area in which any portion of the facility is to be located, both as primarily and as alternatively proposed; and

(b) Proof that public notice thereof was given to persons residing in the municipalities entitled to receive notice pursuant to paragraph (a) by the publication of a summary of the application ~~[or amended application]~~ in

newspapers published and distributed in the area in which the utility facility is proposed to be located.

5. Not later than 5 business days after the Commission receives an application ~~[or amended application]~~ pursuant to this section, the Commission shall issue a notice concerning the application**.** ~~[or amended application.]~~ Any person who wishes to become a party to a permit proceeding pursuant to NRS 704.885 must file with the Commission the appropriate document required by NRS 704.885 within the time frame set forth in the notice issued by the Commission pursuant to this subsection.

Sec. 18.97. **NRS 704.8905 is hereby amended to read as follows:**

704.8905 1. Except as otherwise required to comply with federal law:

(a) Not later than 150 days after a person has filed an application regarding a utility facility pursuant to subsection 1 of NRS 704.870:

(1) The Commission shall grant or deny approval of that application; and

(2) Each other permitting entity shall, if an application for a permit, license or other approval for the construction of the utility facility was filed with the other permitting entity on or before the date on which the applicant filed the application pursuant to subsection 1 of NRS 704.870, grant or deny the application filed with the other permitting entity.

(b) Not later than 120 days after a person has filed an ~~[amended]~~ application regarding a utility facility pursuant to subsection 2 of NRS 704.870:

(1) The Commission shall grant or deny approval of the ~~[amended]~~ application; and

(2) Each other permitting entity shall, if an application for a permit, license or other approval for the construction of the utility facility was filed with the other permitting entity on or before the date on which the applicant filed with the appropriate federal agency an application for approval for the construction of the utility facility, grant or deny the ~~[amended]~~ application filed with the other permitting entity.

2. The Commission or other permitting entity shall make its determination upon the record and may grant or deny the application as filed, or grant the application upon such terms, conditions or modifications of the construction, operation or maintenance of the utility facility as the Commission or other permitting entity deems appropriate.

3. The Commission shall serve a copy of its order and any opinion issued with it upon each party to the proceeding before the Commission.

Sec. 19. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to

otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in ~~[one or more of the following programs:~~

~~(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(II) The]~~ ***the*** Renewable Energy School Pilot Program created by NRS 701B.350 **.** ~~[;~~

~~(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or~~

~~(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.]~~

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;

(3) Geothermal energy;

(4) Solar energy;

(5) Waterpower; and

(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 20. Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. ***Sections 69, 72 to 75, inclusive, and section 94 of this act expire by limitation on December 31, 2012.***

3. Sections 62 to ~~[106,]~~ ***68,*** inclusive, ***70, 71, 77 to 82, inclusive, 85 to 94, inclusive, and 95 to 105, inclusive,*** of this act expire by limitation on ~~[June 30, 2011.]~~ ***December 31, 2021.***

Sec. 21. Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on ~~[June 30, 2011.]~~ ***December 31, 2021.***

Sec. 22. Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.51, 1.85, 1.87, 1.92, 1.93, 1.95, 4.3 to 9, inclusive, and 19.4 of this act expire by limitation on ~~[June 30, 2011.~~

~~3. Sections 1.53 and 19.8 of this act become effective on July 1, 2011.]~~ ***December 31, 2021.***

Sec. 23. (Deleted by amendment.)

Sec. 23.3. 1. NRS 701B.010, 701B.020, 701B.030, 701B.040, 701B.050, 701B.055, 701B.070, 701B.080, 701B.090, 701B.150, 701B.160, 701B.170, 701B.180, 701B.200, 701B.210, 701B.220, 701B.230, 701B.240, 701B.250, 701B.255, 701B.265, 701B.280 and 701B.290 are hereby repealed.

2. NRS 701B.060, 701B.100, 701B.110, 701B.120, 701B.130, 701B.140, 701B.260 and sections 1.53 and 19.8 of chapter 321, Statutes of Nevada 2009, at pages 1372 and 1408, respectively, are hereby repealed.

Sec. 23.5. The Public Utilities Commission of Nevada shall adopt regulations to carry out the amendatory provisions of this act on or before July 1, 2012. The regulations must:

1. Provide for the transition to the performance-based incentive required by NRS 701B.220, as amended by section 4 of this act, NRS 701B.590, as amended by section 10 of this act and NRS 701B.840, as amended by section 10.7 of this act, for the applicable participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program.

2. Require that the capacity allocated for a participant in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Demonstration Program who fails to install and energize the energy system within 12 months after the date on which the applicant is selected for participation in the respective program must be made available to applicants who apply for participation in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Demonstration Program on or after January 1, 2013.

Sec. 24. (Deleted by amendment.)

Sec. 25. 1. This section and sections **1.7, 1.9,** 8.3, 10.1, 18.1, **18.75, 18.8, 18.85, 18.95, 18.97,** 20 to 23, inclusive, and 23.5 of this act become effective upon passage and approval.

2. Sections 1, 2 to 8, inclusive, 8.7 to 10, inclusive, 10.5 to 18, inclusive, 18.5, 18.9 and 24 of this act become effective upon passage and approval for the purpose of adopting regulations, and on January 1, 2013, for all other purposes.

3. Subsection 2 of section 23.3 of this act becomes effective on January 1, 2013.

4. Section 1.5, 18.7, 19 and subsection 1 of section 23.3 of this act become effective on January 1, 2022.

LEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA

701B.010 Applicability.
701B.020 Definitions.
701B.030 "Applicant" defined.
701B.040 "Category" defined.
701B.050 "Commission" defined.
701B.055 "Distributed generation system" defined.
701B.060 "Institution of higher education" defined.
701B.070 "Owned, leased or occupied" defined.
701B.080 "Participant" defined.
701B.090 "Person" defined.
701B.100 "Program year" means the period of July 1 to June 30 of the following year.
701B.110 "Public and other property" defined.
701B.120 "Public entity" defined.
701B.130 "School property" defined.
701B.140 "Small business" defined.
701B.150 "Solar energy system" defined.
701B.160 "Solar Program" defined.
701B.170 "Task Force" defined.
701B.180 "Utility" defined.
701B.200 Regulations: Establishment of incentives and requirements for utility's annual plan; exceptions; recovery of costs by utility.
701B.210 Regulations: Establishment of qualifications and requirements for participation; form and content of utility's master application.
701B.220 Regulations: Establishment of incentives for participation.
701B.230 Duty of utility to file annual plan; review and approval of annual plan by Commission; recovery of costs by utility.
701B.240 Creation of Solar Program; categories of participation; eligibility requirements.
701B.250 Application to participate; review of application by utility.
701B.255 Procedure for selection and notification of participants; authorization to install and energize solar energy system; submission of incentive claim form; determination of amount of incentive; withdrawal of participant; forfeiture of incentive.
701B.260 Capacity allocated to each category; reallocation of capacity; limitations on incentives.
701B.265 Installation of solar energy system deemed public work under certain circumstances.
701B.280 Participation in net metering.
701B.290 Issuance of portfolio energy credits.

Section 1.53 of chapter 321, Statutes of Nevada 2009, at page 1372:

Sec. 1.53. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation:

(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 ~~[and the Wind Energy Systems Demonstration Program created pursuant to 701B.580,]~~ including, without limitation, information relating to:

(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;

(2) The use of carbon-based energy in residential and commercial applications due to participation in the ~~[Programs;]~~ ***Program;*** and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the ~~[Programs;]~~ ***Program;*** and

(b) Information relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources to cooperate with the Commissioner and the Authority:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Authority, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. Carry out all other directives concerning energy that are prescribed by the Governor.

Section 19.8 of chapter 321, Statutes of Nevada 2009, at page 1408:

Sec. 19.8. Section 19.4 of this act is hereby amended to read as follows:

Sec. 19.4. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of each local government shall, within 60 days after the effective date of this section, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240; ***or***

(II) The Renewable Energy School Pilot Program created by NRS 701B.350 **.** ~~[~~;

~~(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or~~

~~(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.~~**]**

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;
(2) Fuel cells;
(3) Geothermal energy;
(4) Solar energy;
(5) Waterpower; and
(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Assemblyman Atkinson moved that the Assembly concur in the Senate Amendment No. 989 to Assembly Bill No. 416.

Motion carried by a constitutional majority.

Bill ordered reprinted, reengrossed, and enrolled.

Assembly Bill No. 503.

The following Senate amendment was read:

Amendment No. 964.

AN ACT relating to wildlife; imposing certain **habitat** conservation fees; authorizing a person who accesses a wildlife management area and who is not the holder of an annual hunting, trapping, fishing or combined hunting

and fishing license to pay an annual **habitat** conservation fee; revising certain provisions governing the use of money in the Wildlife Obligated Reserve Account; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, in addition to any fee charged and collected for an annual hunting, trapping, fishing or combined hunting and fishing license, a $3 habitat conservation fee must be paid. The proceeds from this fee must be deposited in the Wildlife Obligated Reserve Account and must be used for wildlife habitat rehabilitation and restoration. (NRS 502.242) **Section 2** of this bill ~~[redesignates the habitat conservation fee as the conservation fee and]~~ sets the **habitat** conservation fee at $5 for residents and $10 for nonresidents. In addition, **section 2** authorizes a person accessing a wildlife conservation area who is not the holder of a hunting, trapping, fishing or combined hunting and fishing license to pay an annual **habitat** conservation fee of $5 for residents and $10 for nonresidents. **Section 2** also provides that, each year, not more than 18 percent of the money credited to the Wildlife Obligated Reserve Account from any revenue received from those **habitat** conservation fees may be used to monitor wildlife and its habitat for the purposes of wildlife habitat rehabilitation and restoration. **Section 3** of this bill revises the authority of the Board of Wildlife Commissioners concerning the use of a wildlife management area by a person who pays the annual **habitat** conservation fee.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 502.066 is hereby amended to read as follows:~~

~~502.066 1. The Department shall issue an apprentice hunting license to a person who:~~

~~(a) Is 12 years of age or older;~~

~~(b) Has not previously been issued a hunting license by the Department, another state, an agency of a Canadian province or an agency of any other foreign country, including, without limitation, an apprentice hunting license; and~~

~~(c) Except as otherwise provided in subsection 5, is otherwise qualified to obtain a hunting license in this State.~~

~~2. Except as otherwise provided in this subsection, the Department shall not impose a fee for the issuance of an apprentice hunting license. For each apprentice hunting license issued, the applicant or the mentor hunter for the applicant shall pay:~~

~~(a) Any service fee required by a license agent pursuant to NRS 502.040;~~

~~(b) The [~~habitat~~] conservation fee required by NRS 502.242; and~~

~~(c) Any transaction fee that is set forth in a contract of this State with a third-party electronic services provider for each online transaction that is conducted with the Department.~~

~~3. An apprentice hunting license authorizes the apprentice hunter to hunt in this State as provided in this section.~~

~~4. It is unlawful for an apprentice hunter to hunt in this State unless a mentor hunter accompanies and directly supervises the apprentice hunter at all times during a hunt. During the hunt, the mentor hunter shall ensure that:~~

~~(a) The apprentice hunter safely handles and operates the firearm or weapon used by the apprentice hunter; and~~

~~(b) The apprentice hunter complies with all applicable laws and regulations concerning hunting and the use of firearms.~~

~~5. A person is not required to complete a course of instruction in the responsibilities of hunters as provided in NRS 502.340 to obtain an apprentice hunting license.~~

~~6. The issuance of an apprentice hunting license does not:~~

~~(a) Authorize the apprentice hunter to obtain any other hunting license;~~

~~(b) Authorize the apprentice hunter to hunt any animal for which a tag is required pursuant to NRS 502.130; or~~

~~(c) Exempt the apprentice hunter from any requirement of this title.~~

~~7. The Commission may adopt regulations to carry out the provisions of this section.~~

~~8. As used in this section:~~

~~(a) "Accompanies and directly supervises" means maintains close visual and verbal contact with, provides adequate direction to and maintains the ability readily to assume control of any firearm or weapon from an apprentice hunter.~~

~~(b) "Apprentice hunter" means a person who obtains an apprentice hunting license pursuant to this section.~~

~~(c) "Mentor hunter" means a person 18 years of age or older who holds a hunting license issued in this State and who accompanies and directly supervises an apprentice hunter. The term does not include a person who holds an apprentice hunting license pursuant to this section.~~**] (Deleted by amendment.)**

Sec. 2. NRS 502.242 is hereby amended to read as follows:

502.242 1. In addition to any fee charged and collected for an annual hunting, trapping, fishing or combined hunting and fishing license pursuant to NRS 502.240, a habitat conservation fee **[**~~of $3~~**]** must be paid **[**~~.~~**]** ***in the amount of $5 for a resident and $10 for a nonresident.***

2. ***A person accessing a wildlife management area who is not the holder of an annual hunting, trapping, fishing or combined hunting and***

fishing license may pay an annual habitat conservation fee in the amount of $5 for a resident and $10 for a nonresident.

3. The Wildlife Obligated Reserve Account is hereby created in the State General Fund. Revenue from the habitat conservation fee must be accounted for separately, deposited with the State Treasurer for credit to the Wildlife Obligated Reserve Account and, except as otherwise provided in ***this subsection and*** NRS 502.294 and 502.310, used by the Department for the purposes of wildlife habitat rehabilitation and restoration. ***Each year, not more than 18 percent of the money credited to the Wildlife Obligated Reserve Account from any revenue received pursuant to subsections 1 and 2 may be used to monitor wildlife and its habitat for those purposes.*** The interest and income earned on the money in the Wildlife Obligated Reserve Account, after deducting any applicable charges, must be credited to the Account.

~~[3.]~~ ***4.*** The money in the Wildlife Obligated Reserve Account remains in the Account and does not revert to the State General Fund at the end of any fiscal year.

Sec. 3. NRS 504.143 is hereby amended to read as follows:

504.143 1. To effectuate a coordinated and balanced program resulting in the maximum revival of wildlife in the State and in the maximum recreational advantages to the people of the State, the Commission has created and maintains state-owned wildlife management areas, and, in cooperation with the United States Fish and Wildlife Service, the Department of Interior and other federal agencies, has created and maintains other cooperative wildlife management areas.

2. The Commission may permit hunting, fishing or trapping on or within, or access to, occupancy and use of, areas so created and maintained.

3. The Commission may by regulation:

(a) Establish, extend, shorten or abolish open seasons and closed seasons within such areas.

(b) Establish, change or abolish bag and creel limits and possession limits in such areas.

(c) Prescribe the manner and the means of taking wildlife in such areas.

(d) Establish, change or abolish restrictions in such areas based upon sex, maturity or other physical distinctions.

(e) Prescribe the manner of using such areas for a person who pays the annual habitat conservation fee pursuant to NRS 502.242.

Sec. 4. This act becomes effective on July 1, 2011.

Assemblywoman Carlton moved that the Assembly concur in the Senate Amendment No. 964 to Assembly Bill No. 503.

Motion carried.

The following Senate amendment was read:

Amendment No. 982.

SUMMARY—Revises certain provisions governing the ~~[conservation of habitat for wildlife.]~~ **use of money in the Wildlife Obligated Reserve Account.** (BDR 45-1091)

AN ACT relating to wildlife; ~~[imposing certain habitat conservation fees; authorizing a person who accesses a wildlife management area and who is not the holder of an annual hunting, trapping, fishing or combined hunting and fishing license to pay an annual habitat conservation fee;]~~ revising certain provisions governing the use of money in the Wildlife Obligated Reserve Account; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, in addition to any fee charged and collected for an annual hunting, trapping, fishing or combined hunting and fishing license, a $3 habitat conservation fee must be paid. The proceeds from this fee must be deposited in the Wildlife Obligated Reserve Account and must be used for wildlife habitat rehabilitation and restoration. (NRS 502.242) ~~[Section 2 of this bill sets the habitat conservation fee at $5 for residents and $10 for nonresidents. In addition, section 2 authorizes a person accessing a wildlife conservation area who is not the holder of a hunting, trapping, fishing or combined hunting and fishing license to pay an annual habitat conservation fee of $5 for residents and $10 for nonresidents. Section 2 also]~~ **This bill** provides that, each year, not more than 18 percent of the money credited to the Wildlife Obligated Reserve Account from any revenue received from those habitat conservation fees may be used to monitor wildlife and its habitat for the purposes of wildlife habitat rehabilitation and restoration. ~~[Section 3 of this bill revises the authority of the Board of Wildlife Commissioners concerning the use of a wildlife management area by a person who pays the annual habitat conservation fee.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 502.242 is hereby amended to read as follows:

502.242 1. In addition to any fee charged and collected for an annual hunting, trapping, fishing or combined hunting and fishing license pursuant to NRS 502.240, a habitat conservation fee of $3 must be paid . ~~*[in the amount of $5 for a resident and $10 for a nonresident.]*~~

2. ~~*[A person accessing a wildlife management area who is not the holder of an annual hunting, trapping, fishing or combined hunting and fishing license may pay an annual habitat conservation fee in the amount of $5 for a resident and $10 for a nonresident.*~~

~~*3.]*~~ The Wildlife Obligated Reserve Account is hereby created in the State General Fund. Revenue from the habitat conservation fee must be accounted for separately, deposited with the State Treasurer for credit to the Wildlife Obligated Reserve Account and, except as otherwise provided in ***this subsection and*** NRS 502.294 and 502.310, used by the Department for the purposes of wildlife habitat rehabilitation and restoration. ***Each year, not more than 18 percent of the money credited to the Wildlife Obligated Reserve Account from any revenue received pursuant to*** ~~*[subsections 1 and 2]*~~ ***subsection 1 may be used to monitor wildlife and its habitat for those purposes.*** The interest and income earned on the money in the Wildlife Obligated Reserve Account, after deducting any applicable charges, must be credited to the Account.

3. ~~*[4.]*~~ The money in the Wildlife Obligated Reserve Account remains in the Account and does not revert to the State General Fund at the end of any fiscal year.

Sec. 3. ~~**[**NRS 504.143 is hereby amended to read as follows:~~

~~504.143 1. To effectuate a coordinated and balanced program resulting in the maximum revival of wildlife in the State and in the maximum recreational advantages to the people of the State, the Commission has created and maintains state-owned wildlife management areas, and, in cooperation with the United States Fish and Wildlife Service, the Department of Interior and other federal agencies, has created and maintains other cooperative wildlife management areas.~~

~~2. The Commission may permit hunting, fishing or trapping on or within, or access to, occupancy and use of, areas so created and maintained.~~

~~3. The Commission may by regulation:~~

~~(a) Establish, extend, shorten or abolish open seasons and closed seasons within such areas.~~

~~(b) Establish, change or abolish bag and creel limits and possession limits in such areas.~~

~~(c) Prescribe the manner and the means of taking wildlife in such areas.~~

~~(d) Establish, change or abolish restrictions in such areas based upon sex, maturity or other physical distinctions.~~

~~***(e) Prescribe the manner of using such areas for a person who pays the annual habitat conservation fee pursuant to NRS 502.242.]***~~ **(Deleted by amendment.)**

Sec. 4. This act becomes effective on July 1, 2011.

Assemblywoman Carlton moved that the Assembly concur in the Senate Amendment No. 982 to Assembly Bill No. 503.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 578.

The following Senate amendment was read:

Amendment No. 976.

AN ACT relating to the Legislature; providing for the establishment of Joint Interim Standing Committees of the Legislature; specifying the powers and duties of the Joint Interim Standing Committees; repealing various statutory committees; assigning certain powers and duties of repealed statutory committees to the Joint Interim Standing Committees; making various other changes relating to interim legislative activity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various committees on which Legislators serve throughout the biennium. (Chapter 218E of NRS, NRS 176.0123, 439B.200, 459.0085, 482.367004) This bill would repeal several of those committees and establish Joint Interim Standing Committees that parallel standing committees established by the Legislature during its biennial regular sessions. **Section 5** of this bill establishes the Joint Interim Standing Committees and specifies their structure. **Section 6** of this bill provides for meetings of the Committees. **Section 7** of this bill authorizes Committees to review matters within the jurisdiction of their corresponding standing committees and to conduct studies directed by the Legislature and the Legislative Commission, and requires the Committees to report to each session of the Legislature. **Section 62** of this bill transfers the responsibilities of the Commission on Special License Plates to the Joint Interim Standing Committee on Transportation. **Section 64** of this bill repeals the **statutory subcommittees of the** Advisory Commission on the Administration of Justice, the Legislative Committee on Public Lands, the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System, the Legislative Committee on Education, the Legislative Committee on Child Welfare and Juvenile Justice, the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs, the Legislative Committee on Health Care and the Committee on High-Level Radioactive Waste.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 218D.130 is hereby amended to read as follows:

218D.130 1. On July 1 preceding each regular session of the Legislature, and each week thereafter until the adjournment of the Legislature sine die, the Legislative Counsel shall prepare a list of all requests received by the Legislative Counsel, for the preparation of measures to be submitted to the Legislature. The requests must be listed numerically by

a unique serial number which must be assigned to the measures by the Legislative Counsel for the purposes of identification in the order that the Legislative Counsel received the requests. Except as otherwise provided in subsections 3 and 4, the list must only contain the name of each requester, the date and a brief summary of the request.

2. The Legislative Counsel Bureau shall make copies of the list available to the public for a reasonable sum fixed by the Director of the Legislative Counsel Bureau.

3. In preparing the list, the Legislative Counsel shall, if a standing or special committee of the Legislature ***, including a Joint Interim Standing Committee,*** requests a measure on behalf of a Legislator or organization, include the name of the standing or special committee and the name of the Legislator or organization on whose behalf the measure was originally requested.

4. Upon the request of a Legislator who has requested the preparation of a measure, the Legislative Counsel shall add the name of one or more Legislators from either or both Houses of the Legislature as joint requesters. The Legislative Counsel shall not add the name of a joint requester to the list until the Legislative Counsel has received confirmation of the joint request from the primary requester of the measure and from the Legislator to be added as a joint requester. The Legislative Counsel shall remove the name of a joint requester upon receipt of a request to do so made by the primary requester or the joint requester. The names must appear on the list in the order in which the names were received by the Legislative Counsel beginning with the primary requester. The Legislative Counsel shall not act upon the direction of a joint requester to withdraw the requested measure or modify its substance until the Legislative Counsel has received confirmation of the withdrawal or modification from the primary requester.

5. If the primary requester of a measure will not be returning to the Legislature for the legislative session in which the measure is to be considered, the primary requester may authorize a Legislator who will be serving during that session to become the primary sponsor of the measure, either individually or as the chair on behalf of a standing committee. If the Legislator who will be serving during that session agrees to become or have the committee become the primary sponsor of the measure, that Legislator shall notify the Legislative Counsel of that fact. Upon receipt of such notification, the Legislative Counsel shall list the name of that Legislator or the name of the committee as the primary requester of the measure on the list.

6. For the purposes of all limitations on the number of legislative measures that may be requested by a Legislator, a legislative measure with joint requesters must only be counted as a request of the primary requester.

Sec. 2. NRS 218D.160 is hereby amended to read as follows:

218D.160 1. The Chair of the Legislative Commission may request the drafting of not more than 15 legislative measures before the commencement of a regular legislative session, with the approval of the Commission, which relate to the affairs of the Legislature or its employees, including measures requested by the legislative staff.

2. The Chair of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before the commencement of a regular legislative session, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. Except as otherwise provided by ***a*** specific statute ***, joint rule*** or concurrent resolution of the Legislature:

(a) ***A Joint Interim Standing Committee may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the Committee.***

(b) Any ~~[other]~~ legislative committee created by ***a*** statute ***, other than an interim legislative committee,*** may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee.

~~[(b)]~~ ***(c)*** ~~[An interim committee which conducts a study or investigation]~~ ***Any committee or subcommittee established by an order of the Legislative Commission*** pursuant to NRS 218E.200 may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation, except that such a committee ***or subcommittee*** may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote.

~~[(c)]~~ ***(d)*** Any other committee established by the Legislature which conducts an interim legislative study ***or investigation*** may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study ~~[.]~~ ***or investigation.***

➥ ~~[Except as otherwise provided in NRS 218E.205, measures]~~ ***The requests*** authorized ~~[to be requested]~~ pursuant to this subsection must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature unless the Legislative Commission authorizes submitting a request after that date.

4. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

Sec. 3. Chapter 218E of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 9, inclusive, of this act.

Sec. 4. ***As used in sections 4 to 9, inclusive, of this act, "Committee" means a Joint Interim Standing Committee created pursuant to section 5 of this act.***

Sec. 5. ***1. There are hereby created the following Joint Interim Standing Committees of the Legislature:***

(a) Commerce, Labor and Energy;

(b) Education;

(c) Government Affairs;

(d) Health and Human Services;

(e) Judiciary;

(f) Legislative Operations and Elections;

(g) Natural Resources, Agriculture and Mining;

(h) Revenue and Taxation; and

(i) Transportation.

2. Each Committee consists of eight regular members and five alternate members. As soon as is practicable following the adjournment of each regular session of the Legislature:

(a) The Speaker of the Assembly shall appoint five members of the Assembly as regular members of each Committee and three members of the Assembly as alternate members of each Committee.

(b) The Majority Leader of the Senate shall appoint three Senators as regular members of each Committee and two Senators as alternate members of each Committee.

3. Before making their respective appointments, the Speaker of the Assembly and the Majority Leader of the Senate shall consult so that, to the extent practicable:

(a) At least five regular members appointed to each Committee served on the corresponding standing committee or committees during the preceding regular session of the Legislature.

(b) Not more than five regular members appointed to each Committee are members of the same political party and at least one regular member and one alternate member appointed from each House of the Legislature to each Committee are members of a different political party than the appointing authority.

4. The Legislative Commission shall select the Chair and Vice Chair of each Committee from among the members of the Committee. The Chair must be appointed from one House of the Legislature and the Vice Chair from the other House. The position of Chair must alternate each biennium between the Houses of the Legislature. Each of those officers holds the position until a successor is appointed following the next regular session of the Legislature. If a vacancy occurs in the position of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

5. The membership of any member of a Committee who does not become a candidate for reelection or who is defeated for reelection

terminates on the day next after the general election. The Speaker designate of the Assembly or the Majority Leader designate of the Senate, as the case may be, may appoint a member to fill the vacancy for the remainder of the unexpired term.

6. Vacancies on a Committee must be filled in the same manner as original appointments.

Sec. 6. ***1. Except as otherwise ordered by the Legislative Commission, the members of a Committee shall meet not earlier than November 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.***

2. The Director of the Legislative Counsel Bureau or his or her designee shall act as the nonvoting recording Secretary of each Committee.

3. Five members of a Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on a Committee, except that any recommended legislation proposed by a Committee must be approved by a majority of members of the Senate and a majority of members of the Assembly serving on the Committee.

4. Except during a regular or special session of the Legislature, for each day or portion of a day during which a member of a Committee attends a meeting of the Committee or is otherwise engaged in the work of the Committee, the member is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218A.655.

➥ The compensation, per diem allowances and travel expenses of the members of a Committee must be paid from the Legislative Fund.

Sec. 7. ***1. A Committee may evaluate and review issues within the jurisdiction of the corresponding standing committee or committees from the preceding regular session of the Legislature and may, within limits of a Committee's budget, conduct studies directed by the Legislature or the Legislative Commission.***

2. The Legislative Commission shall review and approve the budget and work program of each Committee and any changes to the budget or work program.

3. A Committee shall prepare a comprehensive report of the Committee's activities in the interim and its findings and any recommendations for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the ensuing session of the Legislature.

Sec. 8. ***1. In conducting the investigations and hearings of a Committee:***

(a) Any member of the Committee may administer oaths.

(b) The Chair of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chair may issue subpoenas to compel the attendance of witnesses and the production of books, papers or documents.

2. If a witness refuses to attend or testify or to produce books, papers or documents as required by the subpoena, the Chair may report to the district court 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 the books, papers or documents;

(b) That the witness has been subpoenaed by the Committee pursuant to this section; and

(c) That the witness has failed or refused to attend or to produce the books, papers or documents required by the subpoena before the Committee that is named in the subpoena, or has refused to answer questions propounded to the witness,

➥ and asking for an order of the court compelling the witness to attend and testify or to produce the books, papers or documents before the Committee.

3. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why the witness has not attended or testified or produced the books, papers or documents before the Committee. 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 Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books, papers or documents. Failure to obey the order constitutes contempt of court.

Sec. 9. ***1. Each witness who appears before a Committee by its order, except a state officer or employee, is entitled to receive for such attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State.***

2. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and the Chair of the Committee.

Sec. 10. NRS 218E.200 is hereby amended to read as follows:

218E.200 1. The Legislative Commission may conduct studies or investigations concerning governmental problems, important issues of public policy or questions of statewide interest ~~[.]~~ ***or may assign such studies or investigations to a Joint Interim Standing Committee.***

2. The Legislative Commission may establish subcommittees and interim or special committees as official agencies of the Legislative Counsel Bureau to conduct such studies or investigations or otherwise to deal with such governmental problems, important issues of public policy or questions of statewide interest ~~[.]~~ ***or may assign such matters to a Joint Interim Standing Committee.***

3. The membership of ~~[those]~~ ***any*** subcommittees and interim or special committees ***established pursuant to subsection 2*** must be designated by the Legislative Commission and may consist of members of the Legislative Commission and Legislators other than members of the Commission, employees of the State of Nevada or citizens of the State of Nevada.

4. Members of ~~[those]~~ subcommittees and interim or special committees who are not Legislators shall serve without salary, but they are entitled to receive out of the Legislative Fund the per diem expense allowances and travel expenses provided for state officers and employees generally.

5. Except during a regular or special session of the Legislature, members of ~~[those]~~ subcommittees and interim or special committees who are Legislators are entitled to receive out of the Legislative Fund the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day or portion of a day of attendance, and the per diem expense allowances provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218A.655.

Sec. 11. NRS 218E.205 is hereby amended to read as follows:

218E.205 1. The Legislative Commission shall, between sessions of the Legislature, fix the work priority of all studies and investigations assigned to it by ~~[concurrent resolutions of]~~ the Legislature, ~~[or]~~ directed by an order of the Legislative Commission ~~[,]~~ ***or conducted by a Joint Interim Standing Committee,*** within the limits of available time, money and staff. The Legislative Commission shall not make studies or investigations directed by resolutions of only one House of the Legislature or studies or investigations proposed but not approved during the preceding legislative session.

2. All requests for the drafting of ~~[legislation]~~ ***legislative measures*** to be recommended as the result of a study or investigation ~~[, except a study or investigation directed by an order of the Legislative Commission,]~~ must be made ~~[before July 1 of the year preceding a legislative session.]~~ ***in accordance with NRS 218D.160.***

3. Except as otherwise provided by NRS 218E.210, between sessions of the Legislature no study or investigation may be initiated or continued by the Fiscal Analysts, the Legislative Auditor, the Legislative Counsel or the Research Director and their staffs except studies and investigations which have been specifically authorized by ~~[concurrent resolutions of]~~ the Legislature or by ~~[an order of]~~ the Legislative Commission.

4. No study or investigation may be carried over from one session of the Legislature to the next without additional authorization ~~[by a concurrent resolution]~~ of the Legislature, except audits in progress, whose carryover has been approved by the Legislative Commission.

5. Except as otherwise provided by specific statute, the staff of the Legislative Counsel Bureau shall not serve as primary administrative or professional staff for a committee unless the chair of the committee is required by statute or resolution to be a Legislator.

6. The Legislative Commission shall review and approve the budget and work program and any changes to the budget or work program for each study or investigation conducted by the Legislative Commission or a committee or subcommittee established by the Legislative Commission.

~~[7. A committee or subcommittee established to conduct a study or investigation assigned to the Legislative Commission by concurrent resolution of the Legislature or directed by order of the Legislative Commission must, unless otherwise ordered by the Legislative Commission, meet not earlier than January 1 of the even-numbered year and not later than June 30 of that year.]~~

Sec. 12. NRS 218E.520 is hereby amended to read as follows:

218E.520 1. The ***Joint Interim Standing*** Committee ***on Natural Resources, Agriculture and Mining*** may:

(a) Review and comment on any administrative policy, rule or regulation of the:

(1) Secretary of the Interior which pertains to policy concerning or management of public lands under the control of the Federal Government; and

(2) Secretary of Agriculture which pertains to policy concerning or management of national forests;

(b) Conduct investigations and hold hearings in connection with its review, including, but not limited to, investigating the effect on the State, its citizens, political subdivisions, businesses and industries of those policies, rules, regulations and related laws;

(c) Consult with and advise the State Land Use Planning Agency on matters concerning federal land use, policies and activities in this State;

(d) Direct the Legislative Counsel Bureau to assist in its research, investigations, review and comment;

(e) Recommend to the Legislature as a result of its review any appropriate state legislation or corrective federal legislation;

(f) Advise the Attorney General if it believes that any federal policy, rule or regulation which it has reviewed encroaches on the sovereignty respecting land or water or their use which has been reserved to the State pursuant to the Constitution of the United States;

(g) Enter into a contract for consulting services for land planning and any other related activities, including, but not limited to:

(1) Advising the Committee and the State Land Use Planning Agency concerning the revision of the plans pursuant to NRS 321.7355;

(2) Assisting local governments in the identification of lands administered by the Federal Government in this State which are needed for residential or economic development or any other purpose; and

(3) Assisting local governments in the acquisition of federal lands in this State;

(h) Apply for any available grants and accept any gifts, grants or donations to assist the Committee in carrying out its duties; and

(i) Review and comment on any other matter relating to the preservation, conservation, use, management or disposal of public lands deemed appropriate by the Chair of the Committee or by a majority of the members of the Committee.

2. Any reference in this section to federal policies, rules, regulations and related federal laws includes those which are proposed as well as those which are enacted or adopted.

Sec. 13. NRS 218E.525 is hereby amended to read as follows:

218E.525 1. The ***Joint Interim Standing*** Committee ***on Natural Resources, Agriculture and Mining*** shall:

(a) Actively support the efforts of state and local governments in the western states regarding public lands and state sovereignty as impaired by federal ownership of land.

(b) Advance knowledge and understanding in local, regional and national forums of Nevada's unique situation with respect to public lands.

(c) Support legislation that will enhance state and local roles in the management of public lands and will increase the disposal of public lands.

2. The ***Joint Interim Standing*** Committee ~~[:]~~ ***on Natural Resources, Agriculture and Mining:***

(a) Shall review the programs and activities of:

(1) The Colorado River Commission of Nevada;

(2) All public water authorities, districts and systems in the State of Nevada, including, without limitation, the Southern Nevada Water Authority, the Truckee Meadows Water Authority, the Virgin Valley Water District, the

Carson Water Subconservancy District, the Humboldt River Basin Water Authority and the Truckee-Carson Irrigation District; and

(3) All other public or private entities with which any county in the State has an agreement regarding the planning, development or distribution of water resources, or any combination thereof; ***and***

(b) ~~[Shall, on or before January 15 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the review conducted pursuant to paragraph (a); and~~

~~(c)]~~ May review and comment on other issues relating to water resources in this State, including, without limitation:

(1) The laws, regulations and policies regulating the use, allocation and management of water in this State; and

(2) The status of existing information and studies relating to water use, surface water resources and groundwater resources in this State.

Sec. 14. NRS 218E.565 is hereby amended to read as follows:

218E.565 The ***Joint Interim Standing*** Committee ***on Government Affairs*** shall:

1. Provide appropriate review and oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System;

2. Review the budget, programs, activities, responsiveness and accountability of the Tahoe Regional Planning Agency and the Marlette Lake Water System in such a manner as deemed necessary and appropriate by the Committee;

3. Study the role, authority and activities of:

(a) The Tahoe Regional Planning Agency regarding the Lake Tahoe Basin; and

(b) The Marlette Lake Water System regarding Marlette Lake; and

4. Continue to communicate with members of the Legislature of the State of California to achieve the goals set forth in the Tahoe Regional Planning Compact.

Sec. 15. NRS 218E.615 is hereby amended to read as follows:

218E.615 1. The ***Joint Interim Standing*** Committee ***on Education*** may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;

(2) Legislative measures regarding education;

(3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and the annual

measurable objectives established by the State Board of Education pursuant to NRS 385.361;

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

(6) The program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The ***Joint Interim Standing*** Committee ***on Education*** shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, school districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

(d) For the purposes set forth in NRS 385.3785, recommend to the Commission on Educational Excellence created by NRS 385.3784 programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 16. NRS 218E.625 is hereby amended to read as follows:

218E.625 1. The Legislative Bureau of Educational Accountability and Program Evaluation is hereby created within the Fiscal Analysis Division of the Legislative Counsel Bureau. The Fiscal Analysts shall appoint to the

Legislative Bureau of Educational Accountability and Program Evaluation a Chief and such other personnel as the Fiscal Analysts determine are necessary for the Bureau to carry out its duties pursuant to this section.

2. The Bureau shall, as the Fiscal Analysts determine is necessary or at the request of the ***Joint Interim Standing*** Committee ~~[:]~~ ***on Education:***

(a) Collect and analyze data and issue written reports concerning:

(1) The effectiveness of the provisions of NRS 385.3455 to 385.391, inclusive, in improving the accountability of the schools of this State;

(2) The statewide program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(3) The statewide program to educate persons with disabilities that is set forth in chapter 395 of NRS;

(4) The results of the examinations of the National Assessment of Educational Progress that are administered pursuant to NRS 389.012; and

(5) Any program or legislative measure, the purpose of which is to reform the system of education within this State.

(b) Conduct studies and analyses to evaluate the performance and progress of the system of public education within this State. Such studies and analyses may be conducted:

(1) As the Fiscal Analysts determine are necessary; or

(2) At the request of the Legislature.

➥ This paragraph does not prohibit the Bureau from contracting with a person or entity to conduct studies and analyses on behalf of the Bureau.

(c) On or before December 31 of each even-numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The Bureau shall, on or before December 31 of each odd-numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the Director of the Legislative Counsel Bureau for transmission to the Legislative Commission.

3. The Bureau may, pursuant to NRS 218F.620, require a school, a school district, the Nevada System of Higher Education or the Department of Education to submit to the Bureau books, papers, records and other information that the Chief of the Bureau determines are necessary to carry out the duties of the Bureau pursuant to this section. An entity whom the Bureau requests to produce records or other information shall provide the records or other information in any readily available format specified by the Bureau.

4. Except as otherwise provided in this subsection or NRS 239.0115, any information obtained by the Bureau pursuant to this section shall be deemed a work product that is confidential pursuant to NRS 218F.150. The Bureau may, at the discretion of the Chief and after submission to the Legislature or

Legislative Commission, as appropriate, publish reports of its findings pursuant to paragraphs (a) and (b) of subsection 2.

5. This section does not prohibit the Department of Education or the State Board of Education from conducting analyses, submitting reports or otherwise reviewing educational programs in this State.

Sec. 17. ~~[NRS 62H.320 is hereby amended to read as follows:~~

~~62H.320 1. The Director of the Department of Health and Human Services shall establish within the Department a program to compile and analyze data concerning juvenile sex offenders. The program must be designed to:~~

~~(a) Provide statistical data relating to the recidivism of juvenile sex offenders; and~~

~~(b) Use the data provided by the Division of Child and Family Services of the Department of Health and Human Services pursuant to NRS 62H.220 to assess the effectiveness of programs for the treatment of juvenile sex offenders.~~

~~2. The Director of the Department of Health and Human Services shall report the statistical data and findings from the program to:~~

~~(a) The Legislature at the beginning of each regular session.~~

~~(b) The~~ **[**~~Advisory Commission on the Administration of Justice~~**]** ~~***Joint Interim Standing Committee on Judiciary*** on or before January 31 of each even-numbered year.~~

~~3. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of a juvenile sex offender or the identity of an individual victim of a crime.~~**] (Deleted by amendment.)**

Sec. 18. ~~[NRS 176.0125 is hereby amended to read as follows:~~

~~176.0125 The~~ **[**~~Commission~~**]** ~~***Joint Interim Standing Committee on Judiciary*** shall:~~

~~1. Identify and study the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.~~

~~2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, but not limited to, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.~~

~~3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, but not limited to, the following:~~

~~(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.~~

~~(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.~~

~~(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.~~

~~(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.~~

~~(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.~~

~~(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.~~

~~(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.~~

~~4. Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:~~

~~(a) Policies relating to parole;~~

~~(b) Regulatory procedures and policies of the State Board of Parole Commissioners;~~

~~(c) Policies for the operation of the Department of Corrections;~~

~~(d) Budgetary issues; and~~

~~(e) Other related matters.~~

~~5. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.~~

~~6. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges in this State rely on and follow the recommendations contained in such presentence investigations and reports.~~

~~7. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:~~

~~(a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court; and~~

~~(b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.~~

~~8. Compile and develop statistical information concerning sentencing in this State.~~

~~9. Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:~~

~~(a) State Board of Pardons Commissioners to consider an application for clemency; and~~

~~(b) State Board of Parole Commissioners to consider an offender for parole.~~

~~10. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.~~

~~[11. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the administration of justice in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.]~~ **(Deleted by amendment.)**

Sec. 19. ~~[NRS 176.0127 is hereby amended to read as follows:~~

~~176.0127 1. The Department of Corrections shall:~~

~~(a) Provide the [Commission] *Joint Interim Standing Committee on Judiciary* with any available statistical information or research requested by the [Commission] *Committee* and assist the [Commission] *Committee* in the compilation and development of information requested by the [Commission,] *Committee,* including, but not limited to, information or research concerning the facilities and institutions of the Department of Corrections, the offenders who are or were within those facilities or institutions, rates of recidivism, the~~

~~effectiveness of educational and vocational programs and the sentences which are being served or were served by those offenders;~~

~~(b) If requested by the [Commission,] *Joint Interim Standing Committee on Judiciary,* make available to the [Commission] *Committee* the use of the computers and programs which are owned by the Department of Corrections; and~~

~~(c) Provide the independent contractor retained by the Department of Administration pursuant to NRS 176.0129 with any available statistical information requested by the independent contractor for the purpose of performing the projections required by NRS 176.0129.~~

~~2. The Division shall:~~

~~(a) Provide the [Commission] *Joint Interim Standing Committee on Judiciary* with any available statistical information or research requested by the [Commission] *Committee* and assist the [Commission] *Committee* in the compilation and development of information concerning sentencing, probation, parole and any offenders who are or were subject to supervision by the Division;~~

~~(b) If requested by the [Commission,] *Joint Interim Standing Committee on Judiciary,* make available to the [Commission] *Committee* the use of the computers and programs which are owned by the Division; and~~

~~(c) Provide the independent contractor retained by the Department of Administration pursuant to NRS 176.0129 with any available statistical information requested by the independent contractor for the purpose of performing the projections required by NRS 176.0129.]~~ **(Deleted by amendment.)**

Sec. 20. ~~[NRS 176.0128 is hereby amended to read as follows:~~

~~176.0128 The Central Repository for Nevada Records of Criminal History shall:~~

~~1. Facilitate the collection of statistical data in the manner approved by the Director of the Department of Public Safety and coordinate the exchange of such data with agencies of criminal justice within this State, including:~~

~~(a) State and local law enforcement agencies;~~

~~(b) The Office of the Attorney General;~~

~~(c) The Court Administrator;~~

~~(d) The Department of Corrections; and~~

~~(e) The Division.~~

~~2. Provide the [Commission] *Joint Interim Standing Committee on Judiciary* with available statistical data and information requested by the [Commission.] *Committee.]*~~ **(Deleted by amendment.)**

Sec. 21. ~~[NRS 176.0129 is hereby amended to read as follows:~~

~~176.0129 The Department of Administration shall, on an annual basis, contract for the services of an independent contractor, in accordance with the provisions of NRS 333.700, to:~~

~~1. Review sentences imposed in this State and the practices of the State Board of Parole Commissioners and project annually the number of persons who will be:~~

~~(a) In a facility or institution of the Department of Corrections;~~

~~(b) On probation;~~

~~(c) On parole; and~~

~~(d) Serving a term of residential confinement,~~

~~during the 10 years immediately following the date of the projection; and~~

~~2. Review preliminary proposals and information provided by the~~ **[**~~Commission~~**]** ***Joint Interim Standing Committee on Judiciary*** ~~and project annually the number of persons who will be:~~

~~(a) In a facility or institution of the Department of Corrections;~~

~~(b) On probation;~~

~~(c) On parole; and~~

~~(d) Serving a term of residential confinement,~~

~~during the 10 years immediately following the date of the projection, assuming the preliminary proposals were recommended by the~~ **[**~~Commission~~**]** ***Committee*** ~~and enacted by the Legislature.~~**] (Deleted by amendment.)**

Sec. 22. NRS 233B.063 is hereby amended to read as follows:

233B.063 1. An agency that intends to adopt, amend or repeal a permanent regulation must deliver to the Legislative Counsel a copy of the proposed regulation. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to the Legislative Counsel between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to the Legislative Counsel. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for the issuance or renewal of licenses, permits or certificates of registration issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy

of the approved or revised text of the regulation to the ~~[Legislative Committee on Health Care.]~~ ***Joint Interim Standing Committee on Health and Human Services.***

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

Sec. 23. NRS 233B.070 is hereby amended to read as follows:

233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except as otherwise provided in NRS 293.247 or where a later date is specified in the regulation.

2. Except as otherwise provided in NRS 233B.0633, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.

5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.

6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material

adopted by reference which is not already filed with the State Library and Archives Administrator, to the State Library and Archives Administrator for use by the public. If the agency is a licensing board as defined in NRS 439B.225 and it has adopted a permanent regulation relating to standards for the issuance or renewal of licenses, permits or certificates of registration issued to a person or facility regulated by the agency, the agency shall also deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** within 10 days after the regulation is filed with the Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.

8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the leadlines and numbers of the sections. Any other material which an agency includes in a publication with its regulations must be presented in a form which clearly distinguishes that material from the regulations.

Sec. 24. NRS 244.2962 is hereby amended to read as follows:

244.2962 The board of county commissioners of a county whose population is 400,000 or more shall, each calendar quarter, submit a report to the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** and the Director of the Legislative Counsel Bureau for transmittal to the Legislature, if the Legislature is in session, or to the Legislative Commission, if the Legislature is not in session. The report must include, without limitation, the following information related to each fire department and ambulance service operating in the county:

1. The total number of transports of sick or injured persons to a medical facility that were made by the fire department or ambulance service during that calendar quarter.

2. For each person transported by the fire department or ambulance service during the calendar quarter:

(a) The fees charged to transport the person to a medical facility;

(b) Whether the person had health insurance at the time of transport; and

(c) The name of the medical facility where the fire department or ambulance service transported the person to or from.

Sec. 25. NRS 321.7355 is hereby amended to read as follows:

321.7355 1. The State Land Use Planning Agency shall prepare, in cooperation with appropriate federal and state agencies and local governments throughout the State, plans or statements of policy concerning the acquisition and use of lands in the State of Nevada that are under federal management.

2. The State Land Use Planning Agency shall, in preparing the plans and statements of policy, identify lands which are suitable for acquisition for:

(a) Commercial, industrial or residential development;

(b) The expansion of the property tax base, including the potential for an increase in revenue by the lease and sale of those lands; or

(c) Accommodating increases in the population of this State.

➥ The plans or statements of policy must not include matters concerning zoning or the division of land and must be consistent with local plans and regulations concerning the use of private property.

3. The State Land Use Planning Agency shall:

(a) Encourage public comment upon the various matters treated in a proposed plan or statement of policy throughout its preparation and incorporate such comments into the proposed plan or statement of policy as are appropriate;

(b) Submit its work on a plan or statement of policy periodically for review and comment by the Land Use Planning Advisory Council, the Advisory Board on Natural Resources and ~~[any committees of the Legislature or subcommittees of the Legislative Commission that deal with matters concerning the public lands;]~~ ***the Joint Interim Standing Committee on Natural Resources, Agriculture and Mining;***

(c) On or before February 1 of each odd-numbered year, prepare and submit a written report to the Legislature concerning any activities engaged in by the Agency pursuant to the provisions of this section during the immediately preceding biennium, including, without limitation:

(1) The progress and any results of its work; or

(2) Any plans or statements of policy prepared pursuant to this section; and

(d) Provide written responses to written comments received from a county or city upon the various matters treated in a proposed plan or statement of policy.

4. Whenever the State Land Use Planning Agency prepares plans or statements of policy pursuant to subsection 1 and submits those plans or policy statements to the Governor, Legislature or an agency of the Federal Government, the State Land Use Planning Agency shall include with each plan or statement of policy the comments and recommendations of:

(a) The Land Use Planning Advisory Council;

(b) The Advisory Board on Natural Resources; and

(c) ~~[Any committees of the Legislature or subcommittees of the Legislative Commission that deal with matters concerning the public lands.]~~ ***The Joint Interim Standing Committee on Natural Resources, Agriculture and Mining.***

5. A plan or statement of policy must be approved by the governing bodies of the county and cities affected by it before it is put into effect.

Sec. 26. NRS 385.3465 is hereby amended to read as follows:

385.3465 "Committee" means the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education created pursuant to ~~[NRS 218E.605.]~~ ***section 5 of this act.***

Sec. 27. NRS 385.555 is hereby amended to read as follows:

385.555 1. The Youth Legislature shall:

(a) Hold at least two public hearings in this State each school year. The Youth Legislature may simultaneously teleconference or videoconference each public hearing to two or more prominent locations throughout this State.

(b) Evaluate, review and comment upon issues of importance to the youth in this State, including, without limitation:

(1) Education;

(2) Employment opportunities;

(3) Participation of youth in state and local government;

(4) A safe learning environment;

(5) The prevention of substance abuse;

(6) Emotional and physical well-being;

(7) Foster care; and

(8) Access to state and local services.

(c) Conduct a public awareness campaign to raise awareness about the Youth Legislature and to enhance outreach to the youth in this State.

2. During his or her term, each member of the Youth Legislature shall conduct at least one meeting to afford the youth of this State an opportunity to discuss issues of importance to the youth in this State.

3. The Youth Legislature may, within the limits of available money:

(a) During the period in which the Legislature is in a regular session, meet as often as necessary to conduct the business of the Youth Legislature and to advise the Legislature on proposed legislation relating to the youth in this State.

(b) Form committees, which may meet as often as necessary to assist with the business of the Youth Legislature.

(c) Conduct periodic seminars for its members regarding leadership, government and the legislative process.

(d) Employ a person to provide administrative support for the Youth Legislature or pay the costs incurred by one or more volunteers to provide any required administrative support.

4. Except as otherwise provided in this subsection, the Youth Legislature and its committees shall comply with the provisions of chapter 241 of NRS. Any activities of the Youth Legislature which are conducted solely for purposes of training, including, without limitation, any orientation programs conducted for the Youth Legislature, are not subject to the provisions of chapter 241 of NRS.

5. On or before May 30 of each year, the Youth Legislature shall submit a written report to the Director of the Legislative Counsel Bureau and to the Governor describing the activities of the Youth Legislature during the immediately preceding school year and any recommendations for legislation. The Director shall transmit the written report to the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education and to the next regular session of the Legislature.

Sec. 28. NRS 385.620 is hereby amended to read as follows:

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347;

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

Sec. 29. NRS 386.760 is hereby amended to read as follows:

386.760 1. Each empowerment school, other than a charter school that is sponsored by the State Board or by a college or university within the Nevada System of Higher Education, shall, on a quarterly basis, submit to the board of trustees of the school district in which the school is located a report that includes:

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

2. Each charter school that is sponsored by the State Board or by a college or university within the Nevada System of Higher Education which is approved to operate as an empowerment school shall, on a quarterly basis, submit to the Department a report that includes:

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

3. The board of trustees of a school district shall conduct a financial audit of each empowerment school within the school district, other than a charter school that is sponsored by the State Board or by a college or university within the Nevada System of Higher Education. Each financial audit must be conducted on an annual basis and more frequently if determined necessary by the board of trustees.

4. The Department shall conduct a financial audit of each charter school that is sponsored by the State Board or by a college or university within the Nevada System of Higher Education which operates as an empowerment school on an annual basis and more frequently if determined necessary by the Department.

5. On or before July 1 of each year, the board of trustees of each school district shall compile the reports and audits required pursuant to subsections 1 and 3, if any, and forward the compilation to the:

(a) Governor;

(b) Department; and

(c) ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education.

6. On or before July 1 of each year, the Department shall compile the reports and audits required pursuant to subsections 2 and 4, if any, and forward the compilation to the:

(a) Governor; and

(b) ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education.

Sec. 30. NRS 387.304 is hereby amended to read as follows:

387.304 The Department shall:

1. Conduct an annual audit of the count of pupils for apportionment purposes reported by each school district pursuant to NRS 387.123 and the data reported by each school district pursuant to NRS 388.710 that is used to measure the effectiveness of the implementation of a plan developed by each school district to reduce the pupil-teacher ratio as required by NRS 388.720.

2. Review each school district's report of the annual audit conducted by a public accountant as required by NRS 354.624, and the annual report prepared by each district as required by NRS 387.303, and report the findings of the review to the State Board and the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education, with any recommendations for legislation, revisions to regulations or training needed by school district employees. The report by the Department must identify school districts which failed to comply with any statutes or administrative regulations of this State or which had any:

(a) Long-term obligations in excess of the general obligation debt limit;

(b) Deficit fund balances or retained earnings in any fund;

(c) Deficit cash balances in any fund;

(d) Variances of more than 10 percent between total general fund revenues and budgeted general fund revenues; or

(e) Variances of more than 10 percent between total actual general fund expenditures and budgeted total general fund expenditures.

3. In preparing its biennial budgetary request for the State Distributive School Account, consult with the superintendent of schools of each school district or a person designated by the superintendent.

4. Provide, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, training to the financial officers of school districts in matters relating to financial accountability.

Sec. 31. NRS 387.639 is hereby amended to read as follows:

387.639 1. If the board of trustees of a school district adopts a plan for corrective action, the board of trustees of the school district shall prepare, on or before February 1:

(a) A written progress report for submission, in the even-numbered year after the plan is adopted, to the State Board, the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education and the Legislative Auditor.

(b) A final written report for submission, in the odd-numbered year after the plan is adopted, to the State Board, the Legislative Auditor and the Director of the Legislative Counsel Bureau for transmission to the Legislature.

2. The written progress report and the final written report must indicate the extent to which the plan has been carried out, the extent to which the plan has not been carried out and the reasons for any failure to carry out the plan.

3. Upon receipt of the final written report of the school district, the Legislative Auditor shall:

(a) Review the report and the plan for corrective action;

(b) Determine whether the school district successfully carried out the plan for corrective action and complies with the management principles for each of the areas set forth in subsection 2 of NRS 387.622; and

(c) Submit a written report of the determination of the Auditor to the Legislature, including a recommendation whether the school district should be granted an exemption from its next 6-year review.

4. The Legislature or a standing committee of the Legislature may:

(a) Review the reports submitted pursuant to this section and the written determination of the Legislative Auditor; and

(b) Conduct hearings to examine any justification for the failure of a school district to carry out successfully the management principles or to fully carry out the plan for corrective action.

5. The Legislature may, by concurrent resolution, determine that the school district complies with the management principles and grant an exemption to the school district from its next 6-year review. If a school district is exempt pursuant to this subsection, the exemption is valid for only one review and the school district must undergo a review at least once every 12 years.

Sec. 32. NRS 387.644 is hereby amended to read as follows:

387.644 1. If a school district is granted an exemption pursuant to NRS 387.631 or 387.639, the board of trustees of the school district shall provide written notice for each year that the exemption applies which includes:

(a) A determination of whether the school district continues to carry out the management principles; and

(b) Any changes in the policies or operations of the school district or any other circumstances occurring in the school district that do not conform to the management principles.

2. The written notice must be submitted on or before January 1 to:

(a) In even-numbered years, the State Board, the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education and the Legislative Auditor.

(b) In odd-numbered years, the State Board, the Legislative Auditor and the Director of the Legislative Counsel Bureau for transmission to the Legislature.

Sec. 33. NRS 388.5317 is hereby amended to read as follows:

388.5317 1. The board of trustees of each school district shall, on or before August 1 of each year, prepare a report in the form prescribed by the Department that includes, without limitation, for each school within the school district:

(a) The number of instances in which physical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 388.521 to 388.5317, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil.

2. The board of trustees of each school district shall prescribe a form for each school within the school district to report the information set forth in subsection 1 to the school district and the time by which those reports must be submitted to the school district.

3. On or before August 15 of each year, the board of trustees of each school district shall submit to the Department the written report prepared by the board of trustees pursuant to subsection 1.

4. The Department shall compile the data received by each school district pursuant to subsection 3 and prepare a written report of the compilation, disaggregated by school district. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education.

5. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

Sec. 34. NRS 388.787 is hereby amended to read as follows:

388.787 "Committee" means the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education created pursuant to ~~[NRS 218E.605.]~~ ***section 5 of this act.***

Sec. 35. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347;

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➥ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission

and transmit the written compilation on or before June 1 of each even-numbered year to the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 36. NRS 389.006 is hereby amended to read as follows:

389.006 1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments that the board of trustees determines are vital to measure the achievement and progress of pupils. In making this determination, the board of trustees shall consider any applicable findings and recommendations of the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

Sec. 37. NRS 389.012 is hereby amended to read as follows:

389.012 1. The State Board shall:

(a) In accordance with guidelines established by the National Assessment Governing Board and National Center for Education Statistics and in accordance with 20 U.S.C. §§ 6301 et seq. and the regulations adopted pursuant thereto, adopt regulations requiring the schools of this State that are selected by the National Assessment Governing Board or the National Center for Education Statistics to participate in the examinations of the National Assessment of Educational Progress.

(b) Report the results of those examinations to the:

(1) Governor;

(2) Board of trustees of each school district of this State;

(3) ~~[~~Legislative~~]~~ ***Joint Interim Standing*** Committee on Education created pursuant to ~~[~~NRS 218E.605;~~]~~ ***section 5 of this act;*** and

(4) Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218E.625.

(c) Include in the report required pursuant to paragraph (b) an analysis and comparison of the results of pupils in this State on the examinations required by this section with:

(1) The results of pupils throughout this country who participated in the examinations of the National Assessment of Educational Progress; and

(2) The results of pupils on the achievement and proficiency examinations administered pursuant to this chapter.

2. If the report required by subsection 1 indicates that the percentage of pupils enrolled in the public schools in this State who are proficient on the National Assessment of Educational Progress differs by more than 10 percent of the pupils who are proficient on the examinations administered pursuant to NRS 389.550 and the high school proficiency examination administered pursuant to NRS 389.015, the Department shall prepare a written report describing the discrepancy. The report must include, without limitation, a comparison and evaluation of:

(a) The standards of content and performance for English and mathematics established pursuant to NRS 389.520 with the standards for English and mathematics that are tested on the National Assessment.

(b) The standards for proficiency established for the National Assessment with the standards for proficiency established for the examinations that are administered pursuant to NRS 389.550 and the high school proficiency examination administered pursuant to NRS 389.015.

3. The report prepared by the Department pursuant to subsection 2 must be submitted to the:

(a) Governor;

(b) ~~[~~Legislative~~]~~ ***Joint Interim Standing*** Committee on Education;

(c) Legislative Bureau of Educational Accountability and Program Evaluation; and

(d) Council to Establish Academic Standards for Public Schools.

4. The Council to Establish Academic Standards for Public Schools shall review and evaluate the report provided to the Council pursuant to subsection 3 to identify any discrepancies in the standards of content and performance established by the Council that require revision and a timeline for carrying out the revision, if necessary. The Council shall submit a written report of its review and evaluation to the ~~[~~Legislative~~]~~ ***Joint Interim Standing*** Committee

on Education and Legislative Bureau of Educational Accountability and Program Evaluation.

Sec. 38. NRS 389.570 is hereby amended to read as follows:

389.570 1. The Council shall review the results of pupils on the examinations administered pursuant to NRS 389.550, including, without limitation, for each school in a school district and each charter school that is located within a school district, a review of the results for the current school year and a comparison of the progress, if any, made by the pupils enrolled in the school from preceding school years.

2. After the completion of the review pursuant to subsection 1, the Council shall evaluate:

(a) Whether the standards of content and performance established by the Council require revision; and

(b) The success of pupils, as measured by the results of the examinations, in achieving the standards of performance established by the Council.

3. The Council shall report the results of the evaluation conducted pursuant to subsection 2 to the State Board and the ~~[~~Legislative~~]~~ ***Joint Interim Standing*** Committee on Education.

Sec. 39. NRS 389.616 is hereby amended to read as follows:

389.616 1. The Department shall, by regulation or otherwise, adopt and enforce a plan setting forth procedures to ensure the security of examinations that are administered to pupils pursuant to NRS 389.015 and 389.550.

2. A plan adopted pursuant to subsection 1 must include, without limitation:

(a) Procedures pursuant to which pupils, school officials and other persons may, and are encouraged to, report irregularities in testing administration and testing security.

(b) Procedures necessary to ensure the security of test materials and the consistency of testing administration.

(c) Procedures that specifically set forth the action that must be taken in response to a report of an irregularity in testing administration or testing security and the actions that must be taken during an investigation of such an irregularity. For each action that is required, the procedures must identify:

(1) By category, the employees of the school district, charter school or Department, or any combination thereof, who are responsible for taking the action; and

(2) Whether the school district, charter school or Department, or any combination thereof, is responsible for ensuring that the action is carried out successfully.

(d) Objective criteria that set forth the conditions under which a school, including, without limitation, a charter school or a school district, or both, is

required to file a plan for corrective action in response to an irregularity in testing administration or testing security for the purposes of NRS 389.636.

3. A copy of the plan adopted pursuant to this section and the procedures set forth therein must be submitted on or before September 1 of each year to:

(a) The State Board; and

(b) The ~~[~~Legislative~~]~~ ***Joint Interim Standing*** Committee on Education, created pursuant to ~~[~~NRS 218E.605.~~]~~ ***section 5 of this act.***

Sec. 40. NRS 389.620 is hereby amended to read as follows:

389.620 1. The board of trustees of each school district shall, for each public school in the district, including, without limitation, charter schools, adopt and enforce a plan setting forth procedures to ensure the security of examinations.

2. A plan adopted pursuant to subsection 1 must include, without limitation:

(a) Procedures pursuant to which pupils, school officials and other persons may, and are encouraged to, report irregularities in testing administration and testing security.

(b) Procedures necessary to ensure the security of test materials and the consistency of testing administration.

(c) With respect to secondary schools, procedures pursuant to which the school district or charter school, as appropriate, will verify the identity of pupils taking an examination.

(d) Procedures that specifically set forth the action that must be taken in response to a report of an irregularity in testing administration or testing security and the action that must be taken during an investigation of such an irregularity. For each action that is required, the procedures must identify, by category, the employees of the school district or charter school who are responsible for taking the action and for ensuring that the action is carried out successfully.

➥ The procedures adopted pursuant to this subsection must be consistent, to the extent applicable, with the procedures adopted by the Department pursuant to NRS 389.616.

3. A copy of each plan adopted pursuant to this section and the procedures set forth therein must be submitted on or before September 1 of each year to:

(a) The State Board; and

(b) The ~~[~~Legislative~~]~~ ***Joint Interim Standing*** Committee on Education, created pursuant to ~~[~~NRS 218E.605.~~]~~ ***section 5 of this act.***

4. On or before September 30 of each school year, the board of trustees of each school district and the governing body of each charter school shall provide a written notice regarding the examinations to all teachers and educational personnel employed by the school district or governing body, all

personnel employed by the school district or governing body who are involved in the administration of the examinations, all pupils who are required to take the examinations and all parents and legal guardians of such pupils. The written notice must be prepared in a format that is easily understood and must include, without limitation, a description of the:

(a) Plan adopted pursuant to this section; and

(b) Action that may be taken against personnel and pupils for violations of the plan or for other irregularities in testing administration or testing security.

5. As used in this section:

(a) "Examination" means:

(1) Achievement and proficiency examinations that are administered to pupils pursuant to NRS 389.015 or 389.550; and

(2) Any other examinations which measure the achievement and proficiency of pupils and which are administered to pupils on a district-wide basis.

(b) "Irregularity in testing administration" means the failure to administer an examination in the manner intended by the person or entity that created the examination.

(c) "Irregularity in testing security" means an act or omission that tends to corrupt or impair the security of an examination, including, without limitation:

(1) The failure to comply with security procedures adopted pursuant to this section or NRS 389.616;

(2) The disclosure of questions or answers to questions on an examination in a manner not otherwise approved by law; and

(3) Other breaches in the security or confidentiality of the questions or answers to questions on an examination.

Sec. 41. NRS 389.648 is hereby amended to read as follows:

389.648 1. The Department shall establish procedures for the uniform documentation and maintenance by the Department of irregularities in testing administration and testing security reported to the Department pursuant to NRS 389.628 and investigations of such irregularities conducted by the Department pursuant to NRS 389.624. The procedures must include, without limitation:

(a) A method for assigning a unique identification number to each incident of irregularity; and

(b) A method to ensure that the status of an irregularity is readily accessible by the Department.

2. In accordance with the procedures established pursuant to subsection 1, the Department shall prepare and maintain for each irregularity in testing administration and each irregularity in testing security, a written summary

accompanying the report of the irregularity. The written summary must include, without limitation:

(a) An evaluation of whether the procedures prescribed by the Department pursuant to paragraph (c) of subsection 2 of NRS 389.616 were followed in response to the irregularity;

(b) The corrective action, if any, taken in response to the irregularity pursuant to NRS 389.636;

(c) An evaluation of whether the corrective action achieved the desired result; and

(d) The current status and the outcome, if any, of an investigation related to the irregularity.

3. The Department shall prepare a written report that includes for each school year:

(a) A summary of each irregularity in testing administration and testing security reported to the Department pursuant to NRS 389.628 and each investigation conducted pursuant to NRS 389.624.

(b) A summary for each school that was required to provide additional administration of examinations pursuant to NRS 389.632. The summary must include, without limitation:

(1) The identity of the school;

(2) The type of additional examinations that were administered pursuant to NRS 389.632;

(3) The date on which those examinations were administered;

(4) A comparison of the results of pupils on the:

(I) Examinations in which an additional irregularity occurred in the second school year described in NRS 389.632; and

(II) Additional examinations administered pursuant to NRS 389.632.

(c) Each written summary prepared by the Department pursuant to subsection 2.

(d) The current status of each irregularity that was reported for a preceding school year which had not been resolved at the time that the preceding report was filed.

(e) The current status and the outcome, if any, of an investigation conducted by the Department pursuant to NRS 389.624.

(f) An analysis of the irregularities and recommendations, if any, to improve the security of the examinations and the consistency of testing administration.

4. On or before September 1 of each year, the Department shall submit the report prepared pursuant to subsection 3 for the immediately preceding school year to the **[**~~Legislative~~**]** ***Joint Interim Standing*** Committee on Education created pursuant to **[**~~NRS 218E.605~~**]** ***section 5 of this act*** and the State Board.

Sec. 42. NRS 391.166 is hereby amended to read as follows:

391.166 1. There is hereby created the Grant Fund for Incentives for Licensed Educational Personnel to be administered by the Department. The Department may accept gifts and grants from any source for deposit in the Grant Fund.

2. The board of trustees of each school district shall establish a program of incentive pay for licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level which must be designed to attract and retain those employees. The program must be negotiated pursuant to chapter 288 of NRS and must include, without limitation, the attraction and retention of:

(a) Licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level who have been employed in that category of position for at least 5 years in this State or another state and who are employed in schools which are at-risk, as determined by the Department pursuant to subsection 8; and

(b) Teachers who hold an endorsement in the field of mathematics, science, special education, English as a second language or other area of need within the school district, as determined by the Superintendent of Public Instruction.

3. A program of incentive pay established by a school district must specify the type of financial incentives offered to the licensed educational personnel. Money available for the program must not be used to negotiate the salaries of individual employees who participate in the program.

4. If the board of trustees of a school district wishes to receive a grant of money from the Grant Fund, the board of trustees shall submit to the Department an application on a form prescribed by the Department. The application must include a description of the program of incentive pay established by the school district.

5. The Superintendent of Public Instruction shall compile a list of the financial incentives recommended by each school district that submitted an application. On or before December 1 of each year, the Superintendent shall submit the list to the Interim Finance Committee for its approval of the recommended incentives.

6. After approval of the list of incentives by the Interim Finance Committee pursuant to subsection 5 and within the limits of money available in the Grant Fund, the Department shall provide grants of money to each school district that submits an application pursuant to subsection 4 based upon the amount of money that is necessary to carry out each program. If an insufficient amount of money is available to pay for each program submitted to the Department, the amount of money available must be distributed pro rata based upon the number of licensed employees who are estimated to be

eligible to participate in the program in each school district that submitted an application.

7. An individual employee may not receive as a financial incentive pursuant to a program an amount of money that is more than $3,500 per year.

8. The Department shall, in consultation with representatives appointed by the Nevada Association of School Superintendents and the Nevada Association of School Boards, develop a formula for identifying at-risk schools for purposes of this section. The formula must be developed on or before July 1 of each year and include, without limitation, the following factors:

(a) The percentage of pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.;

(b) The transiency rate of pupils;

(c) The percentage of pupils who are limited English proficient;

(d) The percentage of pupils who have individualized education programs;

(e) The percentage of pupils who score in the bottom two quarters on the mathematics portion or the reading portion, or both, of the high school proficiency examination; and

(f) The percentage of pupils who drop out of high school before graduation.

9. The board of trustees of each school district that receives a grant of money pursuant to this section shall evaluate the effectiveness of the program for which the grant was awarded. The evaluation must include, without limitation, an evaluation of whether the program is effective in recruiting and retaining the personnel as set forth in subsection 2. On or before December 1 of each year, the board of trustees shall submit a report of its evaluation to the:

(a) Governor;

(b) State Board;

(c) Interim Finance Committee;

(d) If the report is submitted in an even-numbered year, Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and

(e) ~~[~~Legislative~~]~~ ***Joint Interim Standing*** Committee on Education.

Sec. 43. NRS 391.536 is hereby amended to read as follows:

391.536 1. On an annual basis, the governing body of each regional training program shall review the budget for the program and submit a proposed budget to the ~~[~~Legislative~~]~~ ***Joint Interim Standing*** Committee on Education. The proposed budget must include, without limitation, the amount of money requested by the governing body to pay for the salary or other compensation of the coordinator of the program hired pursuant to NRS 391.532. In even-numbered years, the proposed budget must be submitted to

the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education at least 4 months before the commencement of the next regular session of the Legislature.

2. The governing body of a regional training program may:

(a) Accept gifts and grants from any source to assist the governing body in providing the training required by NRS 391.544.

(b) Comply with applicable federal laws and regulations governing the provision of federal grants to assist with the training provided pursuant to NRS 391.544, including, without limitation, providing money from the budget of the governing body to match the money received from a federal grant.

Sec. 44. NRS 391.552 is hereby amended to read as follows:

391.552 The governing body of each regional training program shall:

1. Establish a method for the evaluation of the success of the regional training program, including, without limitation, the Nevada Early Literacy Intervention Program. The method must be consistent with the uniform procedures adopted by the Statewide Council pursuant to NRS 391.520.

2. On or before September 1 of each year, submit an annual report to the State Board, the Commission, the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes:

(a) The priorities for training adopted by the governing body pursuant to NRS 391.540.

(b) The type of training offered through the program in the immediately preceding year.

(c) The number of teachers and administrators who received training through the program in the immediately preceding year.

(d) The number of paraprofessionals, if any, who received training through the program in the immediately preceding year.

(e) An evaluation of the success of the program, including, without limitation, the Nevada Early Literacy Intervention Program, in accordance with the method established pursuant to subsection 1.

(f) A description of the gifts and grants, if any, received by the governing body in the immediately preceding year and the gifts and grants, if any, received by the Statewide Council during the immediately preceding year on behalf of the regional training program. The description must include the manner in which the gifts and grants were expended.

(g) The 5-year plan for the program prepared pursuant to NRS 391.540 and any revisions to the plan made by the governing body in the immediately preceding year.

Sec. 45. NRS 391.556 is hereby amended to read as follows:

391.556 The board of trustees of each school district shall submit an annual report to the State Board, the Commission, the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes for the immediately preceding year:

1. The number of teachers and administrators employed by the school district who received training through the program; and

2. An evaluation of whether that training included the standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520.

Sec. 46. NRS 392.129 is hereby amended to read as follows:

392.129 1. The board of trustees of a school district located:

(a) In a county whose population is 100,000 or more shall establish not less than one school attendance council within the school district.

(b) In a county whose population is less than 100,000 may establish a school attendance council within the school district.

2. A school attendance council established by the board of trustees must consist of members whose professional responsibilities relate to the prevention of truancy and the enforcement of laws relating to truancy, which may include, without limitation, a person in charge of monitoring attendance within the school district or a school, a representative from an agency which provides child welfare services, a representative from a law enforcement agency and a representative of the district attorney.

3. A school attendance council shall:

(a) Assist in the implementation of a program to reduce the truancy of pupils adopted by the advisory board to review school attendance pursuant to NRS 392.128.

(b) Monitor each incident involving the truancy of a pupil within the school district and document the efforts made by each school and the school district to assist the pupil in attending school.

(c) Monitor excessive absences of pupils within the school district and document the efforts made by each school and the school district to assist pupils in attending school.

(d) Prepare an annual report which includes a compilation of the disposition of incidences involving the truancy of pupils during the immediately preceding school year. On or before August 1 of each year the report must be submitted to the Department and the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education. The annual report must not disclose the identity of an individual pupil.

(e) Receive and retain a report from a family resource center or other provider of community services that assists pupils who are truant. As used in

this paragraph, "family resource center" has the meaning ascribed to it in NRS 430A.040.

Sec. 47. NRS 392.4644 is hereby amended to read as follows:

392.4644 1. The principal of each public school shall establish a plan to provide for the progressive discipline of pupils and on-site review of disciplinary decisions. The plan must:

(a) Be developed with the input and participation of teachers and other educational personnel and support personnel who are employed at the school, and the parents and guardians of pupils who are enrolled in the school.

(b) Be consistent with the written rules of behavior prescribed in accordance with NRS 392.463.

(c) Include, without limitation, provisions designed to address the specific disciplinary needs and concerns of the school.

(d) Provide for the temporary removal of a pupil from a classroom in accordance with NRS 392.4645.

2. On or before October 1 of each year, the principal of each public school shall:

(a) Review the plan in consultation with the teachers and other educational personnel and support personnel who are employed at the school;

(b) Based upon the review, make revisions to the plan, as recommended by the teachers and other educational personnel and support personnel, if necessary; and

(c) Post a copy of the plan or the revised plan, as applicable, in a prominent place at the school for public inspection and otherwise make the plan available for public inspection at the administrative office of the school.

3. On or before October 1 of each year, the principal of each public school shall submit a copy of the plan established pursuant to subsection 1 or a revised plan, if applicable, to the superintendent of schools of the school district. On or before November 1 of each year, the superintendent of schools of each school district shall submit a report to the board of trustees of the school district that includes:

(a) A compilation of the plans submitted pursuant to this subsection by each school within the school district.

(b) The name of each principal, if any, who has not complied with the requirements of this section.

4. On or before November 30 of each year, the board of trustees of each school district shall submit a written report to the Superintendent of Public Instruction based upon the compilation submitted pursuant to subsection 3 that reports the progress of each school within the district in complying with the requirements of this section.

5. On or before December 31 of each year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative

Counsel Bureau concerning the progress of the schools and school districts throughout this state in complying with this section. If the report is submitted during:

(a) An even-numbered year, the Director of the Legislative Counsel Bureau shall transmit it to the next regular session of the Legislature.

(b) An odd-numbered year, the Director of the Legislative Counsel Bureau shall transmit it to the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education.

Sec. 48. NRS 394.379 is hereby amended to read as follows:

394.379 1. The administrative head of each private school that provides instruction to pupils with disabilities shall, on or before August 15 of each year, prepare a report that includes, without limitation:

(a) The number of instances in which physical restraint was used at the private school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the private school and per pupil enrolled at the private school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the private school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the private school and per pupil enrolled at the private school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 394.353 to 394.379, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the private school and per pupil enrolled at the private school.

2. On or before August 15 of each year, the administrative head of each private school that provides instruction to pupils with disabilities shall submit to the Department the report prepared pursuant to subsection 1. The report must be in the form prescribed by the Department.

3. The Department shall compile the data submitted by each private school pursuant to subsection 2 and prepare a written report of the compilation, disaggregated by each private school. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education.

4. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

Sec. 49. NRS 400.045 is hereby amended to read as follows:

400.045 On or before June 30 of each year, the Council shall submit a written report of its activities and any recommendations to the:

1. Board of Regents of the University of Nevada;
2. State Board;
3. Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature;
4. ~~[Legislative]~~ ***Joint Interim Standing*** Committee on Education; and
5. Governor.

Sec. 50. NRS 422.2728 is hereby amended to read as follows:

422.2728 1. If the Federal Government approves a Medicaid waiver which the Director applied for pursuant to NRS 422.2726, the Director shall adopt regulations to implement the waiver and establish a program in accordance with the waiver, which may include, without limitation, regulations setting forth:

(a) Any amount of contribution that a person who receives any benefit under the program is required to pay;

(b) Criteria for eligibility;

(c) The services covered by the program;

(d) Any limitation on the number of persons who may participate in the program; and

(e) Any other regulations necessary to carry out the program.

2. The Director shall also adopt any necessary regulations to ensure that an employer that provides health care insurance to an employee does not discontinue or reduce the employer's contribution toward such insurance as a result of any subsidy authorized under the program established pursuant to this section. Such regulations must include, without limitation, a requirement that a person is not eligible for a subsidy unless the employer contributes at least 50 percent toward the premium for insurance provided by the employer.

3. The Director shall submit a quarterly report concerning benefits provided by the program established pursuant to this section to the Interim Finance Committee and the ~~[Legislative Committee on Health Care.]~~ ***Joint Interim Standing Committee on Health and Human Services.***

Sec. 51. NRS 439.630 is hereby amended to read as follows:

439.630 1. The Department shall:

(a) Conduct, or require the Grants Management Advisory Committee created by NRS 232.383 to conduct, public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

(1) Promote public health;

(2) Improve health services for children, senior citizens and persons with disabilities;

(3) Reduce or prevent the abuse of and addiction to alcohol and drugs; and

(4) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities, and report the results of the evaluation to the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** on an annual basis.

(c) Allocate not more than 30 percent of available revenues for direct expenditure by the Department to pay for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From the money allocated pursuant to this paragraph, the Department may subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.635 to 439.690, inclusive. The Department shall submit a quarterly report to the Governor, the Interim Finance Committee, the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** and any other committees or commissions the Director deems appropriate regarding the general manner in which expenditures have been made pursuant to this paragraph.

(d) Allocate, by contract or grant, for expenditure not more than 30 percent of available revenues for allocation by the Aging and Disability Services Division of the Department in the form of grants for existing or new programs that assist senior citizens with independent living, including, without limitation, programs that provide:

(1) Respite care or relief of informal caretakers;

(2) Transportation to new or existing services to assist senior citizens in living independently; and

(3) Care in the home which allows senior citizens to remain at home instead of in institutional care.

➥ The Aging and Disability Services Division of the Department shall consider recommendations from the Grants Management Advisory Committee concerning the independent living needs of senior citizens.

(e) Allocate $200,000 of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Director to:

(1) Provide guaranteed funding to finance assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147; and

(2) Fund assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147 and assisted living supportive services that are provided pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708.

➥ The Director shall develop policies and procedures for distributing the money allocated pursuant to this paragraph. Money allocated pursuant to this paragraph does not revert to the Fund at the end of the fiscal year.

(f) Allocate to the Health Division not more than 15 percent of available revenues for programs that are consistent with the guidelines established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services relating to evidence-based best practices to prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. In making allocations pursuant to this paragraph, the Health Division shall allocate the money, by contract or grant:

(1) To the district board of health in each county whose population is 100,000 or more for expenditure for such programs in the respective county;

(2) For such programs in counties whose population is less than 100,000; and

(3) For statewide programs for tobacco cessation and other statewide services for tobacco cessation and for statewide evaluations of programs which receive an allocation of money pursuant to this paragraph, as determined necessary by the Health Division and the district boards of health.

(g) Allocate, by contract or grant, for expenditure not more than 10 percent of available revenues for programs that improve health services for children.

(h) Allocate, by contract or grant, for expenditure not more than 10 percent of available revenues for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the Department shall, to the extent practicable, allocate the money evenly among the following three types of programs:

(1) Programs that provide respite care or relief of informal caretakers for persons with disabilities;

(2) Programs that provide positive behavioral supports to persons with disabilities; and

(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.

(i) Allocate not more than 5 percent of available revenues for direct expenditure by the Department to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.705 to 439.795, inclusive.

(j) Maximize expenditures through local, federal and private matching contributions.

(k) Ensure that any money expended from the Fund will not be used to supplant existing methods of funding that are available to public agencies.

(l) Develop policies and procedures for the administration and distribution of contracts, grants and other expenditures to state agencies, political subdivisions of this State, nonprofit organizations, universities, state colleges and community colleges. A condition of any such contract or grant must be that not more than 8 percent of the contract or grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals per biennium.

(m) To make the allocations required by paragraphs (f), (g) and (h):

(1) Prioritize and quantify the needs for these programs;

(2) Develop, solicit and accept applications for allocations;

(3) Review and consider the recommendations of the Grants Management Advisory Committee submitted pursuant to NRS 232.385;

(4) Conduct annual evaluations of programs to which allocations have been awarded; and

(5) Submit annual reports concerning the programs to the Governor, the Interim Finance Committee, the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** and any other committees or commissions the Director deems appropriate.

(n) Transmit a report of all findings, recommendations and expenditures to the Governor, each regular session of the Legislature, the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** and any other committees or commissions the Director deems appropriate.

2. The Department may take such other actions as are necessary to carry out its duties.

3. To make the allocations required by paragraph (d) of subsection 1, the Aging and Disability Services Division of the Department shall:

(a) Prioritize and quantify the needs of senior citizens for these programs;

(b) Develop, solicit and accept grant applications for allocations;

(c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;

(d) Award grants, contracts or other allocations;

(e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and

(f) Submit annual reports concerning the allocations made by the Aging and Disability Services Division pursuant to paragraph (d) of subsection 1 to the Governor, the Interim Finance Committee, the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** and any other committees or commissions the Director deems appropriate.

4. The Aging and Disability Services Division of the Department shall submit each proposed grant or contract which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the grant or contract is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging and Disability Services Division of the Department shall not expend or transfer any money allocated to the Aging and Disability Services Division pursuant to this section to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive, or to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

5. A veteran may receive benefits or other services which are available from the money allocated pursuant to this section for senior citizens or persons with disabilities to the extent that the veteran does not receive other benefits or services provided to veterans for the same purpose if the veteran qualifies for the benefits or services as a senior citizen or a person with a disability, or both.

6. As used in this section, "available revenues" means the total revenues deposited in the Fund for a Healthy Nevada each year minus $200,000.

Sec. 52. NRS 439.970 is hereby amended to read as follows:

439.970 1. Except as otherwise provided in chapter 414 of NRS, if a health authority identifies within its jurisdiction a public health emergency or other health event that is an immediate threat to the health and safety of the

public in a health care facility or the office of a provider of health care, the health authority shall immediately transmit to the Governor a report of the immediate threat.

2. Upon receiving a report pursuant to subsection 1, the Governor shall determine whether a public health emergency or other health event exists that requires a coordinated response for the health and safety of the public. If the Governor determines that a public health emergency or other health event exists that requires such a coordinated response, the Governor shall issue an executive order:

(a) Stating the nature of the public health emergency or other health event;

(b) Stating the conditions that have brought about the public health emergency or other health event, including, without limitation, an identification of each health care facility or provider of health care, if any, related to the public health emergency or other health event;

(c) Stating the estimated duration of the immediate threat to the health and safety of the public; and

(d) Designating an emergency team comprised of:

(1) The State Health Officer or a person appointed pursuant to subsection 5, as applicable; and

(2) Representatives of state agencies, divisions, boards and other entities, including, without limitation, professional licensing boards, with authority by statute to govern or regulate the health care facilities and providers of health care identified as being related to the public health emergency or other health event pursuant to paragraph (b).

3. If additional state agencies, divisions, boards or other entities are identified during the course of the response to the public health emergency or other health event as having authority regarding a health care facility or provider of health care that is related to the public health emergency or other health event, the Governor shall direct that agency, division, board or entity to appoint a representative to the emergency team.

4. The State Health Officer or a person appointed pursuant to subsection 5, as applicable, is the chair of the emergency team.

5. If the State Health Officer has a conflict of interest relating to a public health emergency or other health event or is otherwise unable to carry out the duties prescribed pursuant to NRS 439.950 to 439.983, inclusive, the Director shall temporarily appoint a person to carry out the duties of the State Health Officer prescribed in NRS 439.950 to 439.983, inclusive, until such time as the public health emergency or other health event has been resolved or the State Health Officer is able to resume those duties. The person appointed by the Director must meet the requirements prescribed by subsection 1 of NRS 439.090.

6. The Governor shall immediately transmit the executive order to:

(a) The Legislature or, if the Legislature is not in session, to the Legislative Commission and the ~~[Legislative Committee on Health Care;]~~ ***Joint Interim Standing Committee on Health and Human Services;*** and

(b) Any person or entity deemed necessary or advisable by the Governor.

7. The Governor shall declare a public health emergency or other health event terminated before the estimated duration stated in the executive order upon a finding that the public health emergency or other health event no longer poses an immediate threat to the health and safety of the public. Upon such a finding, the Governor shall notify each person and entity described in subsection 6.

8. If a public health emergency or other health event lasts longer than the estimated duration stated in the executive order, the Governor is not required to reissue an executive order, but shall notify each person and entity identified in subsection 6.

9. The Attorney General shall provide legal counsel to the emergency team.

Sec. 53. NRS 439.980 is hereby amended to read as follows:

439.980 The chair of the emergency team or a member of the emergency team designated by the chair shall:

1. Provide information to the general public and ensure that the public remains informed on the progress of the work of the emergency team.

2. Act as the liaison between the emergency team and the Governor, the Speaker of the Assembly, the Majority Leader of the Senate, the Attorney General and any other officer, agency or political subdivision of this State with an interest in the response to and resolution of the public health emergency or other health event.

3. Provide to the Governor and the Legislature or, if the Legislature is not in session, to the Legislative Commission and the ~~[Legislative Committee on Health Care:]~~ ***Joint Interim Standing Committee on Health and Human Services:***

(a) During the course of an investigation of a public health emergency or other health event, monthly updates, or more frequent updates if requested, on the progress of the work of the emergency team; and

(b) Upon the resolution of the issues involved in the public health emergency or other health event, a report on the findings of the emergency team and the action that was taken to resolve the public health emergency or other health event and any consequences thereof.

Sec. 54. NRS 439.983 is hereby amended to read as follows:

439.983 Upon the resolution of a public health emergency or other health event, the emergency team shall:

1. Make recommendations to the State Board of Health and local boards of health with respect to regulations or policies which may be adopted to

prevent public health emergencies and other health events or to improve responses to public health emergencies and other health events; and

2. Evaluate the response of each state agency, division, board or other entity represented on the emergency team and make recommendations to the Governor and the Legislature or, if the Legislature is not in session, to the Legislative Commission and the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** with respect to actions and measures that may be taken to improve such responses.

Sec. 55. NRS 439A.290 is hereby amended to read as follows:

439A.290 1. In carrying out the provisions of NRS 439A.200 to 439A.290, inclusive, the Department:

(a) Shall work in consultation with a quality improvement organization of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(b) May contract with the Nevada System of Higher Education or any appropriate, independent and qualified person or entity to analyze the information collected and maintained by the Department pursuant to NRS 439A.200 to 439A.290, inclusive. Such a contractor may release or publish or otherwise use information made available to it pursuant to the contract if the Department determines that the information is accurate and the contractor complies with the regulations adopted pursuant to subsection 2.

2. The Department shall adopt regulations for the review and release of information collected and maintained by the Department pursuant to NRS 439A.200 to 439A.290, inclusive. The regulations must require, without limitation, the Department to review each request for information if the request is for purposes other than research.

3. The Department shall, on or before July 1 of each year, submit to the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** a report concerning each request that is made pursuant to subsection 2 and the determination of the Department with regard to each request.

Sec. 56. NRS 439B.040 is hereby amended to read as follows:

439B.040 "Committee" means the ~~[Legislative Committee on Health Care.]~~ ***Joint Interim Standing Committee on Health and Human Services.***

Sec. 57. NRS 449.242 is hereby amended to read as follows:

449.242 1. Each hospital located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds shall establish a staffing committee to develop a documented staffing plan as required pursuant to NRS 449.2421. The staffing committee must consist of:

(a) Not less than one-half of the total members from the licensed nursing staff who are providing direct patient care at the hospital; and

(b) Not less than one-half of the total members appointed by the administration of the hospital.

2. The staffing committee of a hospital shall meet at least quarterly.

3. Each hospital that is required to establish a staffing committee pursuant to this section shall prepare a written report concerning the establishment of the staffing committee, the activities and progress of the staffing committee and a determination of the efficacy of the staffing committee. The hospital shall submit the report on or before December 31 of each:

(a) Even-numbered year to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) Odd-numbered year to the ~~[Legislative Committee on Health Care.]~~ ***Joint Interim Standing Committee on Health and Human Services.***

Sec. 58. NRS 449.446 is hereby amended to read as follows:

449.446 1. The Health Division shall conduct annual and unannounced on-site inspections of each office of a physician or a facility that provides health care, other than a medical facility, which holds a permit issued pursuant to NRS 449.443 and each surgical center for ambulatory patients which holds a license issued pursuant to this chapter.

2. An inspection conducted pursuant to this section must focus on the infection control practices and policies of the surgical center for ambulatory patients, the office or the facility that is the subject of the inspection. The Health Division may, as it deems necessary, conduct a more comprehensive inspection of a surgical center, office or facility.

3. Upon completion of an inspection, the Health Division shall:

(a) Compile a report of the inspection, including each deficiency discovered during the inspection, if any; and

(b) Forward a copy of the report to the surgical center for ambulatory patients, the office of the physician or the facility where the inspection was conducted.

4. If a deficiency is indicated in the report, the surgical center for ambulatory patients, the office of the physician or the facility shall correct each deficiency indicated in the report in the manner prescribed by the Board pursuant to NRS 449.448.

5. The Health Division shall annually prepare and submit to the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** and the Legislative Commission a report which includes:

(a) The number and frequency of inspections conducted pursuant to this section;

(b) A summary of deficiencies or other significant problems discovered while conducting inspections pursuant to this section and the results of any follow-up inspections; and

(c) Any other information relating to the inspections as deemed necessary by the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** or the Legislative Commission.

Sec. 59. NRS 449.465 is hereby amended to read as follows:

449.465 1. The Director may, by regulation, impose fees upon admitted health insurers to cover the costs of carrying out the provisions of NRS 449.450 to 449.530, inclusive. The maximum amount of fees collected must not exceed the amount authorized by the Legislature in each biennial budget.

2. The Director shall impose a fee of $50 each year upon admitted health insurers for the support of the ~~[Legislative Committee on Health Care.]~~ ***Joint Interim Standing Committee on Health and Human Services.*** The fee imposed pursuant to this subsection is in addition to any fee imposed pursuant to subsection 1. The fee collected for the support of the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** must be deposited in the Legislative Fund.

Sec. 60. NRS 449.520 is hereby amended to read as follows:

449.520 1. On or before October 1 of each year, the Director shall prepare and transmit to the Governor, the ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** and the Interim Finance Committee a report of the Department's operations and activities for the preceding fiscal year.

2. The report prepared pursuant to subsection 1 must include:

(a) Copies of all summaries, compilations and supplementary reports required by NRS 449.450 to 449.530, inclusive, together with such facts, suggestions and policy recommendations as the Director deems necessary;

(b) A summary of the trends of the audits of hospitals in this State that the Department required or performed during the previous year;

(c) An analysis of the trends in the costs, expenses and profits of hospitals in this State;

(d) An analysis of the corporate home office allocation methodologies of hospitals in this State;

(e) An examination and analysis of the manner in which hospitals are reporting the information that is required to be filed pursuant to NRS 449.490, including, without limitation, an examination and analysis of whether that information is being reported in a standard and consistent manner, which fairly reflect the operations of each hospital;

(f) A review and comparison of the policies and procedures used by hospitals in this State to provide discounted services to, and to reduce charges for services provided to, persons without health insurance;

(g) A review and comparison of the policies and procedures used by hospitals in this State to collect unpaid charges for services provided by the hospitals; and

(h) A summary of the status of the programs established pursuant to NRS 439A.220 and 439A.240 to increase public awareness of health care information concerning the hospitals and surgical centers for ambulatory patients in this State, including, without limitation, the information that was posted in the preceding fiscal year on the Internet website maintained for those programs pursuant to NRS 439A.270.

3. The ~~[Legislative Committee on Health Care]~~ ***Joint Interim Standing Committee on Health and Human Services*** shall develop a comprehensive plan concerning the provision of health care in this State which includes, without limitation:

(a) A review of the health care needs in this State as identified by state agencies, local governments, providers of health care and the general public; and

(b) A review of the capital improvement reports submitted by hospitals pursuant to subsection 2 of NRS 449.490.

Sec. 61. NRS 450B.795 is hereby amended to read as follows:

450B.795 1. The State Board of Health shall collect data, in accordance with the system that is developed by the Board pursuant to subsection 5, concerning the waiting times for the provision of emergency services and care to each person who is in need of such services and care and who is transported to a hospital by a provider of emergency medical services.

2. Each hospital and each provider of emergency medical services in a county whose population is 400,000 or more shall participate in the collection of data pursuant to this section by collecting data, in accordance with the system that is developed by the State Board of Health pursuant to subsection 5, concerning the waiting times for the provision of emergency services and care to each person who is in need of such services and care and who is transported to a hospital by a provider of emergency medical services.

3. Except as otherwise provided in subsection 4, the hospitals and the providers of emergency medical services in a county whose population is less than 400,000 are not required to participate in the collection of data pursuant to this section unless the county health officer, each hospital and each provider of emergency medical services in the county agree in writing that the county will participate in the collection of data. The county health officer shall submit the written agreement to the State Board of Health.

4. If the State Board of Health determines, in a county whose population is 100,000 or more but less than 400,000, that there are excessive waiting times at one or more hospitals in the county for the provision of emergency services and care to persons who are in need of such services and care and

who have been transported to the hospital by a provider of emergency medical services, the State Board of Health may require the county to implement a system of collecting data pursuant to subsection 5 concerning the extent of waiting times and the circumstances surrounding such waiting times.

5. For the purpose of collecting data pursuant to this section, the State Board of Health shall develop a system of collecting data concerning the waiting times of persons for the provision of emergency services and care at a hospital and the surrounding circumstances for such waiting times each time a person is transported to a hospital by a provider of emergency medical services. The system must include, without limitation, an electronic method of recording and collecting the following information:

(a) The time at which a person arrives at the hospital, which is the time that the person is presented to the emergency room of the hospital;

(b) The time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care, which is the time that the person is physically present in the appropriate place and the staff of the emergency room of the hospital have received a report concerning the transfer of the person;

(c) If a person is not transferred to an appropriate place in the hospital to receive emergency services and care within 30 minutes after arriving at the hospital, information detailing the reason for such delay, which may be selected from a predetermined list of possible reasons that are available for selection in the electronic system;

(d) A unique identifier that is assigned to each transfer of a person to a hospital by a provider of emergency medical services which allows the transfer to be identified and reviewed; and

(e) The names of the personnel of the provider of emergency medical services who transported the person to the hospital and of the personnel of the hospital who are responsible for the care of the person after the person arrives at the hospital.

6. The State Board of Health shall ensure that:

(a) The data collected pursuant to subsection 5 is reported to the Health Division on a quarterly basis;

(b) The data collected pursuant to subsection 5 is available to any person or entity participating in the collection of data pursuant to this section; and

(c) The system of collecting data developed pursuant to subsection 5 and all other aspects of the collection comply with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

7. The State Board of Health shall appoint for each county in which hospitals and providers of emergency medical services are participating in the collection of data pursuant to this section an advisory committee

consisting of the health officer of the county, a representative of each hospital in the county and a representative of each provider of emergency medical services in the county. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses for the member's service on the advisory committee. Each advisory committee shall:

(a) Meet not less than once each calendar quarter;

(b) Review the data that is collected for the county and submitted to the State Board of Health concerning the waiting times for the provision of emergency services and care, the manner in which such data was collected and any circumstances surrounding such waiting times;

(c) Review each incident in which a person was transferred to an appropriate place in a hospital to receive emergency services and care more than 30 minutes after arriving at the hospital; and

(d) Submit a report of its findings to the State Board of Health.

8. The State Board of Health may delegate its duties set forth in this section to:

(a) The district board of health in a county whose population is 400,000 or more.

(b) The county or district board of health in a county whose population is less than 400,000.

9. The State Board of Health or any county or district board of health that is performing the duties of the State Board of Health pursuant to subsection 8 shall submit a quarterly report to the ~~[Legislative Committee on Health Care,]~~ ***Joint Interim Standing Committee on Health and Human Services,*** which must include a written compilation of the data collected pursuant to this section.

10. The State Board of Health may require each hospital and provider of emergency medical services located in a county that participates in the collection of data pursuant to this section to share in the expense of purchasing hardware, software, equipment and other resources necessary to carry out the collection of data pursuant to this section.

11. The State Board of Health shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations prescribing the duties and responsibilities of each:

(a) County or district board of health that is performing the duties of the State Board of Health pursuant to subsection 8;

(b) Hospital located in a county that participates in the collection of data pursuant to this section; and

(c) Provider of emergency medical services located in a county whose population is less than 400,000 that participates in the collection of data pursuant to this section.

12. The district board of health in each county whose population is 400,000 or more shall adopt regulations consistent with subsection 11 for providers of emergency medical services located in the county to carry out the provisions of this section.

13. The State Board of Health may, in consultation with each hospital and provider of emergency medical services located in a county that participates in the collection of data pursuant to this section, submit a written request to the Director of the Legislative Counsel Bureau for transmission to a regular session of the Legislature for the repeal of this section. Such a written request must include the justifications and reasons for requesting the termination of the collection of data pursuant to this section.

14. As used in this section:

(a) "Emergency services and care" has the meaning ascribed to it in NRS 439B.410.

(b) "Hospital" has the meaning ascribed to it in NRS 449.012.

(c) "Provider of emergency medical services" means each operator of an ambulance and each fire-fighting agency which has a permit to operate pursuant to this chapter and which provides transportation for persons in need of emergency services and care to hospitals.

Sec. 62. NRS 482.367004 is hereby amended to read as follows:

482.367004 1. There is hereby created the Commission on Special License Plates consisting of ~~[~~~~five Legislators~~~~]~~ ***the Joint Interim Standing Committee on Transportation*** and three nonvoting members ***.*** ~~[~~~~as follows:~~

~~(a) Five Legislators appointed by the Legislative Commission:~~

~~(1) One of whom is the Legislator who served as the Chair of the Assembly Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in place of the Legislator when absent. The alternate must be another Legislator who also served on the Assembly Standing Committee on Transportation during the most recent legislative session.~~

~~(2) One of whom is the Legislator who served as the Chair of the Senate Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in place of the Legislator when absent. The alternate must be another Legislator who also served on the Senate Standing Committee on Transportation during the most recent legislative session.~~

~~(b) Three~~~~]~~

2. The three nonvoting members ~~[~~~~consisting of:~~

~~(1)~~~~]~~ ***of the Commission consist of:***

(a) The Director of the Department of Motor Vehicles, or a designee of the Director.

~~[(2)]~~ ***(b)*** The Director of the Department of Public Safety, or a designee of the Director.

~~[(3)]~~ ***(c)*** The Director of the Department of Cultural Affairs, or a designee of the Director.

~~[2. Each member of the Commission appointed pursuant to paragraph (a) of subsection 1 serves a term of 2 years, commencing on July 1 of each odd-numbered year. A vacancy on the Commission must be filled in the same manner as the original appointment.]~~

3. Members of the Commission serve without salary or compensation for their travel or per diem expenses.

4. The Director of the Legislative Counsel Bureau shall provide administrative support to the Commission.

5. The Commission shall approve or disapprove:

(a) Applications for the design, preparation and issuance of special license plates that are submitted to the Department pursuant to subsection 1 of NRS 482.367002;

(b) The issuance by the Department of special license plates that have been designed and prepared pursuant to NRS 482.367002; and

(c) Except as otherwise provided in subsection 6, applications for the design, preparation and issuance of special license plates that have been authorized by an act of the Legislature after January 1, 2007.

➥ In determining whether to approve such an application or issuance, the Commission shall consider, without limitation, whether it would be appropriate and feasible for the Department to, as applicable, design, prepare or issue the particular special license plate. The Commission shall consider each application in the chronological order in which the application was received by the Department.

6. The provisions of paragraph (c) of subsection 5 do not apply with regard to special license plates that are issued pursuant to NRS 482.3785.

7. The Commission shall:

(a) Approve or disapprove any proposed change in the distribution of money received in the form of additional fees. As used in this paragraph, "additional fees" means the fees that are charged in connection with the issuance or renewal of a special license plate for the benefit of a particular cause, fund or charitable organization. The term does not include registration and license fees or governmental services taxes.

(b) If it approves a proposed change pursuant to paragraph (a) and determines that legislation is required to carry out the change, request the assistance of the Legislative Counsel in the preparation of a bill draft to carry out the change.

Sec. 63. NRS 528.150 is hereby amended to read as follows:

528.150 1. On or before January 1 of each year, the State Forester Firewarden shall, in coordination and cooperation with the Tahoe Regional Planning Agency and the fire chiefs within the Lake Tahoe Basin, submit a report concerning fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin to:

(a) The ~~[Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and Marlette Lake Water System created by NRS 218E.555]~~ ***Joint Interim Standing Committee on Government Affairs*** and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature;

(b) The Governor;

(c) The Tahoe Regional Planning Agency; and

(d) Each United States Senator and Representative in Congress who is elected to represent the State of Nevada.

2. The report submitted by the State Forester Firewarden pursuant to subsection 1 must address, without limitation:

(a) The status of:

(1) The implementation of plans for the prevention of fires in the Nevada portion of the Lake Tahoe Basin, including, without limitation, plans relating to the reduction of fuel for fires;

(2) Efforts concerning forest restoration in the Nevada portion of the Lake Tahoe Basin; and

(3) Efforts concerning rehabilitation of vegetation, if any, as a result of fire in the Nevada portion of the Lake Tahoe Basin.

(b) Compliance with:

(1) The goals and policies for fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin; and

(2) Any recommendations concerning fire prevention or public safety made by any fire department or fire protection district in the Nevada portion of the Lake Tahoe Basin.

(c) Any efforts to:

(1) Increase public awareness in the Nevada portion of the Lake Tahoe Basin regarding fire prevention and public safety; and

(2) Coordinate with other federal, state, local and private entities with regard to projects to reduce fire hazards in the Nevada portion of the Lake Tahoe Basin.

Sec. 64. NRS ~~[176.0121, 176.0123,]~~ 176.0124, 176.01245, ~~[176.0126,]~~ 218E.500, 218E.505, 218E.510, 218E.515, 218E.530, 218E.535, 218E.550, 218E.555, 218E.560, 218E.570, 218E.575, 218E.580, 218E.600, 218E.605, 218E.610, 218E.620, 218E.700, 218E.705, 218E.710, 218E.715, 218E.720, 218E.725, 218E.730, 218E.745, 218E.750, 218E.755, 218E.760, 218E.765,

218E.770, 439B.200, 439B.210, 439B.230, 439B.240 and 459.0085 are hereby repealed.

Sec. 64.5. 1. If the provisions of any other act or resolution passed by the 76th Session of the Nevada Legislature provide for a legislative study or investigation:

(a) The provisions of the other act or resolution that provide for the legislative study or investigation are superseded and abrogated by the provisions of this act; and

(b) The legislative study or investigation provided for in the other act or resolution must be conducted by the Joint Interim Standing Committee established pursuant to section 5 of this act which has jurisdiction over the subject matter of the study or investigation, except that the Committee may conduct the study or investigation only within limits of the Committee's budget and work program approved by the Legislative Commission pursuant to section 7 of this act.

2. If the subject matter of such a legislative study or investigation falls within the jurisdiction of more than one Joint Interim Standing Committee established pursuant to section 5 of this act, the Legislative Commission shall assign the study or investigation to the most appropriate Committee based on the budgets and work programs approved by the Legislative Commission for the Committees.

3. As used in this section:

(a) "Legislative study or investigation" includes, without limitation, any:

(1) Interim legislative study or investigation; or

(2) Legislative study or investigation assigned to a statutory legislative committee, including, without limitation, a statutory legislative committee abolished by the provisions of this act.

(b) "Legislative study or investigation" does not include the advisory committee to develop recommendations for increasing the funding of highways in this State created by Assembly Bill No. 152 of the 76th Session of the Nevada Legislature.

Sec. 65. The initial Chairs and Vice Chairs of the Joint Interim Standing Committees established pursuant to section 5 of this act must be appointed as follows:

1. The Chairs of the following Committees must be appointed from among the members of the Senate and the Vice Chairs must be appointed from among the members of the Assembly serving on the respective Committees:

(a) Commerce, Labor and Energy;

(b) Government Affairs;

(c) Judiciary;

(d) Revenue and Taxation; and

(e) Transportation.

2. The Chairs of the following Joint Interim Standing Committees must be appointed from among the members of the Assembly and the Vice Chairs must be appointed from among the members of the Senate serving on the respective Committees:

(a) Education;

(b) Health and Human Services;

(c) Legislative Operations and Elections; and

(d) Natural Resources, Agriculture and Mining.

Sec. 66. 1. This section and sections 1 to 35, inclusive, and 37 to 65, inclusive, of this act become effective upon passage and approval.

2. Section 36 of this act becomes effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

[~~176.0121 "Commission" defined.~~

~~176.0123 Creation; members and appointing authorities; Chair; terms; vacancies; salaries and per diem; staff.~~**]**

176.0124 Subcommittee on Juvenile Justice; creation; Chair; members; duties; salaries and per diem.

176.01245 Subcommittee on Victims of Crime; creation, Chair; members; duties; salaries and per diem.

[~~176.0126 Subpoenas: Power to issue; compelling performance.~~**]**

218E.500 Legislative findings and declarations.

218E.505 "Committee" defined.

218E.510 Creation; membership; budget; officers; terms; vacancies; alternates.

218E.515 Meetings; rules; quorum; compensation, allowances and expenses of members.

218E.530 Administration of oaths; deposition of witnesses; issuance and enforcement of subpoenas.

218E.535 Fees and mileage for witnesses.

218E.550 "Committee" defined.

218E.555 Creation; membership; budget; officers; terms; vacancies; reports.

218E.560 Meetings; rules; quorum; compensation, allowances and expenses of members.

218E.570 General powers.

218E.575 Administration of oaths; deposition of witnesses; issuance and enforcement of subpoenas.

218E.580 Fees and mileage for witnesses.

218E.600 "Committee" defined.

218E.605 Creation; membership; budget; officers; terms; vacancies.

218E.610 Meetings; quorum; compensation, allowances and expenses of members.

218E.620 Administration of oaths; deposition of witnesses; issuance and enforcement of subpoenas.

218E.700 "Committee" defined.

218E.705 Creation; membership; budget; officers; terms; vacancies.

218E.710 Meetings; quorum; compensation, allowances and expenses of members.

218E.715 General duties.

218E.720 General powers.

218E.725 Administration of oaths; deposition of witnesses; issuance and enforcement of subpoenas.

218E.730 Fees and mileage for witnesses.

218E.745 "Committee" defined.

218E.750 Creation; membership; budget; officers; terms; vacancies.

218E.755 Meetings; quorum; compensation, allowances and expenses of members.

218E.760 General powers.

218E.765 Administration of oaths; deposition of witnesses; issuance and enforcement of subpoenas.

218E.770 Fees and mileage for witnesses.

439B.200 Creation; appointment of and restrictions on members; officers; terms of members; vacancies; annual reports.

439B.210 Meetings; quorum; compensation.

439B.230 Investigations and hearings: Depositions; subpoenas.

439B.240 Investigations and hearings: Fees and mileage for witnesses.

459.0085 Creation; membership; duties; compensation and expenses of members.

Assemblyman Segerblom moved that the Assembly concur in the Senate Amendment No. 982 to Assembly Bill No. 578.

Motion carried by a constitutional majority.

Bill ordered reprinted, reengrossed, and enrolled.

Assembly Bill No. 449.

The following amendment was proposed by the Senate Select Committee on Economic Growth and Employment:

Amendment No. 977.

AN ACT relating to economic development; creating ~~[an]~~ **and prescribing the duties of the** Advisory Council on Economic Development; ~~[prescribing the duties of the Advisory Council;]~~ creating **and prescribing the duties and powers of** the Board of Economic Development; ~~[prescribing~~

~~the duties and powers of the Board;~~] creating **and prescribing the duties and powers of** 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 regional development ~~[agencies]~~ **authorities** for the purpose of economic development; establishing a fund to provide financial assistance to 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 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:

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 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, 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, 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 14 and 15** prescribe the duties of the Office and its Executive Director, which include, without limitation, the development of a State Plan for Economic Development and the designation of regional development ~~[agencies]~~ **authorities** for the regions of this State. **Section 86** repeals the provisions authorizing the establishment of regional development districts by the Governor. **Section 15.5 of this bill authorizes the Office of Economic Development to enter into certain contracts with regional development authorities for services which promote the economic development of this State and aid the implementation of the State Plan for Economic Development.** 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 the existing powers and duties of the Commission on Economic Development to the Office of Economic Development and require the coordination of certain activities of various public entities with the activities of the Office. 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]~~ **amends provisions concerning** partial abatements of property taxes for certain energy-efficient buildings ~~[from]~~ **to require** the Director of the Office of Energy to **consult with** 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]~~ **amend provisions concerning** partial tax abatements for certain renewable energy facilities ~~[from]~~ **to require consultation between** the Nevada Energy Commissioner ~~[to]~~ **and** the Office of Economic Development **in granting the partial tax abatements** and **to** 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 ~~[,]~~ and 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]~~ **The** money **in the Catalyst Fund** does not revert and may be supplemented by gifts, grants, donations, bequests or other sources of money. **Section 9** authorizes the Commission on Economic Development to make, after considering the advice and recommendations of the Advisory Council on Economic Development, grants or loans of money from the Catalyst Fund to regional development ~~[agencies.]~~ **authorities.** 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. On July 1, 2012, **section 17** transfers the authority to make those grants or loans to the Executive Director of the Office of Economic Development.

Sections 18-22 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. **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, hiring and retention of faculty and teams to conduct research in science and technology; (2) research laboratories and related equipment; (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.

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 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]*~~ ***3.5*** ***to 7.5, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3.5. *"****Administrative or operating purposes" includes, without limitation, the dissemination of program information, marketing, grant writing, accounting services, legal services, travel and training.***

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 funding for administrative or operating purposes or 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.*

Sec. 7.5. *"Regional development ~~[agency"]~~ authority" means an organization for economic development which is:*

1. A local governmental entity , ~~[or]~~ composed solely of two or more local governmental entities ~~[,]~~ or a private nonprofit entity; and

2. Designated by the Executive Director as a regional development ~~[agency]~~ authority 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 except that ~~[, to the extent approved by]~~ :

(a) Upon the prior approval of the Executive Director, the members of the Advisory Council who are not Legislators 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 ~~[.]~~ ; and

(b) For each day or portion of a day during which a member of the Advisory Council who is a Legislator is engaged in the official business of the Advisory Council, except during a regular or special session of the Legislature, the Legislator is entitled to receive the per diem allowance provided for state officers generally and the travel expenses provided pursuant to NRS 218A.655. The per diem allowances and travel expenses of the members of the Advisory Council who are Legislators must be paid from the Legislative Fund.

4. The members of the Advisory Council 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.

(c) Provide advice to the Board concerning the economic development of this State.

Sec. 9. *1. 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 of or withdrawal of funding from specific local and regional organizations for economic development.

(b) Establish procedures for applying to the Commission on Economic Development 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.

(e) Establish requirements for reports from 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 regional development agencies that apply for such 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.]~~ In accordance with the procedures established pursuant to subsection 1 and subject to the requirements of this section:

(a) A regional development authority which is a local government or composed solely of two or more local governmental entities; or

(b) A private nonprofit regional development authority acting in partnership with a regional development authority which is a local government or composed solely of two or more local governments,

➥ may apply to the Commission on Economic Development for a grant or loan of money from the Catalyst Fund created pursuant to section 16 of this act. If a private nonprofit regional development authority acting in partnership with a regional development authority which is a local government or composed solely of two or more local governments applies for a grant or loan of money from the Catalyst Fund, the regional development authority which is a local government or composed solely of two or more local governments must be the entity which submits the application and receives and distributes the grant or loan.

3. In accordance with the procedures established pursuant to subsection 1 and subject to the requirements of this subsection, a regional development authority may apply to the Commission on Economic Development for a development resource. A private nonprofit regional development authority applying for a development resource which is a grant or loan of money must apply in partnership with a regional development authority which is a local government or composed solely of two or more local governments. Any development resource which is a grant or loan of money must be received and distributed by the regional development authority which is a local government or composed solely of two or more local governments.

4. Upon receipt of an application pursuant to subsection 2 or 3, the Commission on Economic Development shall review the application and determine whether the approval of the application would promote the economic development of this State. If the Commission determines that approving the application will promote the economic development of this

State, the Commission may approve the application and provide a development resource or make a grant or loan of money from the Catalyst Fund to the applicant.

5. 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 Commission on Economic Development provides to a regional development authority 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 Commission on Economic Development may provide a development resource or a grant or loan of money to a regional development authority to be used for administrative or operating expenses, but no money from the Catalyst Fund may be used by any organization for economic development for such purposes.

6. Before providing a development resource, grant or loan to a regional development [agency] authority pursuant to [this subsection,] subsection 4, the Commission shall enter into an agreement with the regional development [agency] authority which sets forth terms and conditions for the development resource, grant or loan, including, without limitation, a requirement that the regional development [agency] authority must enter into a separate agreement with each business to which the regional development [agency] authority 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 between the regional development [agency] authority and the Commission.

[3.] 7. The Advisory Council on Economic Development 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:***

(a) The following voting members:

(1) The Governor or his or her designee;

(2) The Lieutenant Governor or his or her designee;

(3) The Secretary of State or his or her designee; and

(4) Six members who must be selected from the private sector and appointed as follows:

(I) Three members appointed by the Governor;

(II) One member appointed by the Speaker of the Assembly;

(III) One member appointed by the Majority Leader of the Senate; and

(IV) One member appointed by the Minority Leader of the Assembly or the Minority Leader of the Senate. The Minority Leader of the ~~[Assembly]~~ Senate shall appoint the member for the initial term, the Minority Leader of the ~~[Senate]~~ Assembly 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 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 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 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 development ~~[agencies.]~~ authorities.

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 development ~~[agencies]~~ authorities for each region.

5. Provide advice and recommendations to the Executive Director concerning:

(a) The procedures to be followed by any entity seeking to obtain any development resource, allocation, grant or loan from the Office;

(b) The criteria to be used by the Office in providing development resources and making allocations, grants and loans;

(c) The requirements for reports from the recipients of development resources, allocations, grants and loans from the Office concerning the use thereof; and

(d) Any other activities of the Office.

6. Review each proposal by the Executive Director to allocate, grant or loan more than ~~[$250,000 or loan more than $500,000]~~ $100,000 to any entity and, as the Board determines to be in the best interests of the State, approve or disapprove the proposed allocation, grant or loan. Notwithstanding any other statutory provision to the contrary, the Executive Director shall not make any allocation, grant or loan of more than ~~[$250,000 or loan more than $500,000]~~ $100,000 to any entity unless the allocation, 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.*

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. 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. 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. ***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]~~ authorities 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]~~ authorities for each region of this State as the Executive Director determines to be appropriate to implement the State Plan for Economic Development. In designating regional development authorities, the Executive Director must consult with local governmental entities affected by the designation. 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]~~ authority previously designated pursuant to this section.

5. Shall establish procedures for entering into contracts with regional development authorities to provide services to aid, promote and encourage the economic development of this State.

6. 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,]~~ 15.5, 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 sections 12 to ~~[15,]~~ 15.5, 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 development ~~[agencies]~~ authorities 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 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. 15.5. 1. In accordance with the provisions of this section and under the direction of the Executive Director, the Office may enter into contracts with regional development authorities for services which 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. A contract entered into pursuant to this section must only provide funding for administrative or operating purposes.

2. Before entering into a contract pursuant to subsection 1, the Office, in consultation with the Board, must issue a request for proposals. The request for proposals must include, without limitation, provisions requiring a bid submitted by a regional development authority to state:

(a) The services to be provided by the regional development authority;

(b) The plans, projects and programs for which the regional development authority is seeking to enter into the contract;

(c) The expected benefits of the contract; and

(d) The short-term and long-term impacts of the contract.

3. A contract entered into pursuant to this section must:

(a) Set forth the services to be provided, and the plans, projects and programs to be carried out, by the regional development authority;

(b) Include a provision requiring the regional development authority to refund any funding provided pursuant to the contract if it is not used in accordance with the contract;

(c) Promote, aid or encourage 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

(d) Require the regional development authority to submit the reports required by subsection 4.

4. A regional development authority which enters into a contract pursuant to this section must submit to the Office reports concerning the use of the funding provided pursuant to the contract. The reports must include, without limitation:

(a) A description of each activity undertaken with funding provided pursuant to the contract and the amount of funding used for each such activity;

(b) The return on the funding provided pursuant to the contract;

(c) A statement of the benefit to the public from the funding provided pursuant to the contract; and

(d) Such documentation as the Executive Director deems appropriate to support the information provided in the report.

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 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. 17. ***1. The Executive Director shall, 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] and subject to the requirements of this subsection:

(a) A regional development [agency] authority which is a local government or composed solely of two or more local governmental entities; or

(b) A private nonprofit regional development authority acting in partnership with a regional development authority which is a local government or composed solely of two or more local governments,

➥ *may apply for [a development resource or] a grant or loan of money from the Catalyst Fund. If a private nonprofit regional development authority acting in partnership with a regional development authority which is a local government or composed solely of two or more local governments applies for a grant or loan of money from the Catalyst Fund, the regional development authority which is a local government or composed solely of two or more local governments must be the entity which submits the application and receives and distributes the grant or loan.*

3. In accordance with the procedures established pursuant to subsection 1 and subject to the requirements of this subsection, a regional development authority may apply for a development resource. A private nonprofit regional development authority applying for a development resource which is a grant or loan of money must apply in partnership with a regional development authority which is a local government or composed solely of two or more local governments. Any development resource which is a grant or loan of money must be received and distributed by the regional development authority which is a local government or composed solely of two or more local governments.

4. Upon receipt of [such] an application [,] pursuant to subsection 2 or 3, 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 provide a development resource or make a grant or loan of money from the Catalyst Fund to the applicant.

[3.] 5. 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]~~ **authority** 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]~~ **authority** 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.]~~ **6.** After considering the advice and recommendations of the Board, the Executive Director shall:*

*(a) Require each regional development ~~[agency]~~ **authority** 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 the Executive Director that sets forth terms and conditions of the development resource, grant or loan, which must include, without limitation, a provision requiring the regional development ~~[agency]~~ **authority** to enter into a separate agreement with each business to which the regional development ~~[agency]~~ **authority** 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 between the regional development ~~[agency]~~ **authority** and the Executive Director.*

*(b) Establish the requirements for reports from regional development ~~[agencies]~~ **authorities** concerning the use of development resources and grants and loans of money from the Catalyst Fund. 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.]~~ **7.** 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:*

(a) The amount of grants and loans awarded from the Catalyst Fund;

(b) The amount of all grants, gifts and donations to the Catalyst Fund from public and private sources;

(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

(d) The number of jobs which have been created or saved because of grants and loans from the Catalyst Fund.

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]~~ authority may grant to another organization for economic development any money granted by the Office to the regional development ~~[agency]~~ authority 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]~~ authorities 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:*

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 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:

(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 for deposit in the Knowledge Fund; and

(c) Subject to any restrictions imposed by such a grant, gift, donation or appropriation, 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 offices of the research universities and the Desert Research Institute to support commercialization and technology transfer to the private sector.

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.

4. In making allocations of money from the Knowledge Fund created pursuant to section 19 of this act, the Executive Director must consider:

(a) The extent to which an allocation will 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; and

(b) Whether the research universities and the Desert Research Institute have received an equitable share of the allocations of money from the Knowledge Fund.

Sec. 20. ***1. In consultation with the Board and the Chancellor, the Executive Director shall:***

(a) Establish, 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.

(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.

(d) Establish economic development objectives for the programs established pursuant to sections 18 to 22, inclusive, of this act.

(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.

(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.

(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.

(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, 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, 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 community colleges by connecting them to the research universities 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 community colleges with the expertise of the research universities 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. *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, 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;

3. The construction of research clinics, institutes and facilities and related buildings located or to be located in this State; 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. (Deleted by amendment.)

Sec. 27. (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 or 360.750 . ~~*[, 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 ~~[.]~~ ***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 ~~[In]~~ ***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 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 ~~[.]~~ ***; 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. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (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. (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.~~**]** **(Deleted by amendment.)**

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.]~~ ***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.*** 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.]~~ ***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. (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. (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 ~~[(e), 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 ~~[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 shall, at]~~ ***pursuant to NRS 274.310, 274.320, 274.330 [,] or 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 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 ~~[.]~~ ***; 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 , ***in consultation with the 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) ~~[Commission on]~~ ***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 ***, in consultation with the 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 ~~*[.]*~~ ; 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 ***, in consultation with the Office of Economic Development,*** 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 ~~[Commission on]~~ ***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 ***, in consultation with the 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 ***, in consultation with the Office of Economic Development,*** 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 ***, in consultation with the Office of Economic Development ,*** may, if the Commissioner ***, in consultation with the 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. 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 ~~[.]~~ 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 ~~[.]~~ ***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. 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.]~~ **(Deleted by amendment.)**

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]*~~ ***, in consultation with 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. 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. 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. 80.5. **Section 11 of this act is hereby amended to read as follows:**

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 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 development authorities.

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 development authorities for each region.

5. Provide advice and recommendations to the Executive Director concerning:

(a) The procedures to be followed by any entity seeking to obtain any development resource, allocation, grant or loan from the Office;

(b) The criteria to be used by the Office in providing development resources and making allocations, grants and loans;

(c) The requirements for reports from the recipients of development resources, allocations, grants and loans from the Office concerning the use thereof; and

(d) Any other activities of the Office.

6. Review each proposal by the Executive Director to ***enter into a contract pursuant to section 15.5 of this act for more than $100,000 or*** allocate, grant or loan more than $100,000 to any entity and, as the Board determines to be in the best interests of the State, approve or disapprove the proposed allocation, grant or loan. Notwithstanding any other statutory provision to the contrary, the Executive Director shall not ***enter into any contract pursuant to section 15.5 of this act for more than $100,000 or*** make any allocation, grant or loan of more than $100,000 to any entity unless the allocation, grant or loan is approved by the Board.

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 ~~[.]~~ ***, 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 authorities pursuant to subsection 4.

4. Shall designate as many regional development authorities for each region of this State as the Executive Director determines to be appropriate to implement the State Plan for Economic Development. In designating regional development authorities, the Executive Director must consult with local governmental entities affected by the designation. 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 authority previously designated pursuant to this section.

5. Shall establish procedures for entering into contracts with regional development authorities to provide services to aid, promote and encourage the economic development of this State.

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 ~~[15.5, inclusive, and 17 to]~~ 22, inclusive, of this act.

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 ~~[15.5, inclusive, and 17 to]~~ 22, inclusive, of this act.

8. 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. 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.

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 authorities 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. 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.

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. 85. 1. On or before October 1, 2011, the Advisory Council on Economic Development created by section 8 of this act shall 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, 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 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 Advisory Council. Within the limits of legislative appropriations, 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. 86. 1. NRS 231.030, 231.040, 231.050, 231.065, 231.067, 231.070, 231.080, 231.090, 231.110 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. 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. 93. 1. This section and sections 2 to 8, 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.]~~ **15,** inclusive, **16,** 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 1.5, **15.5,** 17, 17.5, 23, 24 to 29, inclusive, 30, 31, 31.7 to 45, inclusive, and 47 to 84, inclusive, and subsection 1 of section 86 of this act become effective on July 1, 2012.

4. Sections 9 and 46 of this act expire by limitation on June 30, 2012.

LEADLINES OF REPEALED SECTIONS

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.

231.142 "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 Bobzien moved that the Assembly concur in the Senate Amendment No. 977 to Assembly Bill No. 449.

Motion carried by a constitutional majority.

Bill ordered reprinted, reengrossed, and enrolled.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 6, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 945 to Senate Bill No. 75; Assembly Amendment No. 978 to Senate Bill No. 427.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 943 to Senate Bill No. 271.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 376.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bills Nos. 199, 524, and 525..

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Benitez-Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Jean Stoess.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Martha P. King Elementary School: Catherine Hodgdon, Alexandra Perry, Sylvie Randall, Andrea Vidana, Ashleigh Wood, Curtis Wood, Emily Marlow, Erica Fiore, Hannah Estes, Kirk Estes, Dakota Coleman, Tina Coleman, Joshua Perez, Jillian Roederer, Elias Woodbury, Lori Giunta, Abby Giunta, Malia Davis, Victoria Francis, Natalie Bowman, Andy Bowman, Elise Hawkins, Olivia Hyde, Jesse Erwin, Cruz Mangin, Geneva Clark, Brandi Evans, Ashley Morgan, Cassidy Boone, Chandler Larson, Laurie Larson, Charles Lesco, Cooper Cummings, Danni Wilke, Darrin Bailey, Emily Eschner, Wendy Kiser-Eschner, Erin Cowley, Duaine Cowley, Geri Wachtel, Sandra Wachtel, Karli Parsons, Marleena Mills, Azure Fecteau, Morgan McKay, Daniel McKay, Nichole Del Rio, Olivia Goodfellow, Joni Goodfellow, Setia Cox, Robin Lee, Robin Coppola, Anthony Gelsone, and Luis Vidana.

On request of Assemblyman Hickey, the privilege of the floor of the Assembly Chamber for this day was extended to Tiger Helgelien.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Danielle Barraza.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Gerald McNulty.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Jake Dzyak and Mike Dzyak.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to Sylvie Randall and Elias Woodbury.

Assemblyman Conklin reported that his committee had informed the Governor that the Assembly was ready to adjourn *sine die*.

Assemblywoman Smith reported that her committee had informed the Senate that the Assembly was ready to adjourn *sine die*.

Assemblyman Atkinson moved that the Seventy-Sixth Session of the Assembly of the Legislature of the State of Nevada adjourn *sine die*.
Motion carried.

Assembly adjourned at 12:59 a.m.

Approved: JOHN OCEGUERA
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly