

THE SEVENTY-THIRD DAY

CARSON CITY (Wednesday), April 20, 2011

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

President Krolicki presiding.

Roll called.

All present except Senator Schneider, who was excused.

Prayer by the Chaplain, Pastor Ron Torkelson.

God Almighty,

In the Bible a promise is given that You are able to do immeasurably more than all we ask or imagine according to Your power that is at work within us. As we look and listen at our surroundings we can see an incredible task before us.

The people of Nevada are concerned about the future, their jobs, their homes and their children's well being. These neighbors of ours are looking to this Senate with hope that the government may be able to help stem the pain and worry of these circumstances. And yet this is no simple task.

Therefore, I pray for these men and women again today. I pray that their insight, wisdom and compassion will be part of the solution to the pain, hurt and hopelessness of so many they represent.

The task may not be simple but then Your promise is to do more than we can possibly imagine. May Your wisdom be ours. I pray that the decisions made here today will be those. You can bless tomorrow.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 21, 99, 168, 266, 267, 278, 291, 292, 313, 314, 328, 351, 367, 414, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

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

MO DENIS, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 233, 487, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 113, 420, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ALLISON COPENING, *Chair*

COMMUNICATIONS
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-2803

April 6, 2011

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, State of Nevada Senate,
Legislative Building, 401 South Carson Street, Carson City, Nevada 89701

DEAR SENATOR HORSFORD:

This letter serves as a formal request to address the Nevada Legislature at the joint session held on the evening of Monday, April 25, 2011 at 5:00 p.m. My understanding is that this date and time is available.

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

Thank you for your consideration of this request.

Sincerely,

DR. JOE HECK

Member of Congress

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Horsford, Breeden, Brower, Cegavske, Copenning, Denis, Gustavson, Halseth, Hardy, Kieckhefer, Kihuen, Lee, Leslie, Manendo, McGinness, Parks, Rhoads, Roberson, Schneider, Settelmeyer, Wiener; Assemblymen Smith, Aizley, Anderson, Atkinson, Benitez-Thompson, Bobzien, Brooks, Bustamante Adams, Carlton, Carrillo, Conklin, Daly, Diaz, Dondero Loop, Ellison, Flores, Frierson, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Hogan, Horne, Kirkpatrick, Kirner, Kite, Livermore, Mastroluca, McArthur, Munford, Neal, Oceguela, Ohrenschall, Pierce, Segerblom, Sherwood, Stewart and Woodbury:

Senate Concurrent Resolution No. 7—Memorializing Milton D. Glick, President of the University of Nevada, Reno.

WHEREAS, The members of the Nevada Legislature note with great sorrow the passing of Milton Glick, President of the University of Nevada, Reno, and one of Nevada's finest educators and leaders, on April 16, 2011; and

WHEREAS, Born in Memphis, Tennessee, in 1937, Dr. Glick grew up in Rock Island, Illinois, and it soon became apparent that education was to be his passion, as he graduated with a bachelor's degree in chemistry from Augustana College in Rock Island and earned his doctorate at the University of Wisconsin in Madison, followed by postdoctoral studies at Cornell University in Ithaca, New York; and

WHEREAS, Dr. Glick was on the faculty at Wayne State University in Detroit, Michigan, Iowa State University in Ames, the College of Arts and Science at the University of Missouri in Columbia and Arizona State University in Tempe, which reinforced his enduring belief in the power of higher education; and

WHEREAS, At his inauguration as the 15th President of the University of Nevada, Reno, in 2006, Dr. Glick stated that "The next Comstock Lode is not in the mines of Nevada. . . . It is in the minds of Nevadans," thereby signaling to all Nevadans that he had the leadership and commitment to take the University to new heights and national recognition; and

WHEREAS, Despite economic challenges, President Glick fostered a culture of excellence and led the University to unprecedented growth through campus expansion and construction,

increased research funding, the recruitment of a record number of National Merit Scholarship students and the elevation of the University to Tier 1 status in the prestigious annual rankings of *U. S. News & World Report*; and

WHEREAS, The efforts of this talented leader and devoted educator resulted last year in the University graduating its largest class ever, marking a 66 percent increase in the number of baccalaureate degrees awarded over the last 10 years; and

WHEREAS, Dr. Glick's mantra was that "Nevada needs more education, not less. It's about what we want our children and grandchildren to inherit," and when asked about the future of education in the face of severe budget cuts, he said, "I still believe that what we do at our University will determine the quality of life for all Nevadans"; and

WHEREAS, As the heart and soul of the University of Nevada, Reno, Dr. Glick always put the students' needs first, whether it was by participating in a walk-a-thon, rooting for the Wolf Pack, or telling a story he always had a twinkle in his eye and optimism for the future of Nevada through education; and

WHEREAS, The absence of this beloved figure with his trademark hat and ever-present sense of humor will forever alter the aura of the campus of the University of Nevada, Reno; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 76th Nevada Legislature offer their deepest condolences to Dr. Glick's wife Peggy, son David and his wife Jennifer, son Sander and his wife Laura, and grandchildren Toby, Nina and Elijah; and be it further

RESOLVED, That the remarkable legacy which Dr. Glick leaves through the lives he touched and through living his belief that education is the pathway to a better future for the Silver State is appreciated and lauded by all residents of this State; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Dr. Glick's beloved wife Peggy.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Thank you, Mr. President. The loss of President Milton Glick hit the State of Nevada and the University of Nevada, Reno, in particular, very hard.

President Glick dedicated his life to improving education across the country and was an asset to the University of Nevada, Reno. We were fortunate and blessed to have him in our State. His dedication to improving the lives of students was unmatched. Throughout his career, from Iowa to Arizona to Nevada, universities under President Glick's watch saw increases in enrollment, improvements in student retention and boosts in research funding. His legacy in education will live on, but his warm and friendly presence truly will be missed.

Our thoughts and prayers are with President Glick's wife, Peggy, his entire family and the students, faculty and staff of the University of Nevada, Reno. I encourage the body to adopt Senate Concurrent Resolution No. 7 in memory of the late President Milton D. Glick.

Resolution adopted.

Senator Horsford moved that all necessary rules be suspended and that Senate Concurrent Resolution No. 7 be immediately transmitted to the Assembly.

Motion carried unanimously.

Senator Denis moved that the action whereby Senate Bills Nos. 449, 451 which were re-referred to the Committee on Finance be rescinded.

Motion carried.

Senator Denis moved that Senate Bills Nos. 449, 451 be placed at the top of the Second Reading File.

Motion carried.

Senator Wiener moved that Senate Bill No. 140 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering the K-12 budget, with Senator Horsford as Chair and Senator Leslie as Vice Chair of the Committee of the Whole.

Motion carried.

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

Senate in recess at 10:34 a.m.

IN COMMITTEE OF THE WHOLE

At 11:18 a.m.

Senator Horsford presiding.

K-12 Budget discussed.

The Committee of the Whole was addressed by Senator Horsford; Senator Lee; Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division; Julie Waller, Program Analyst; Senator Cegavske; Senator Wiener; Senator Kieckhefer; Dwight Jones, Superintendent of Schools, Clark County School District; Jeff Weiler, Chief Financial Officer, Clark County School District; Senator Hardy; Senator Settelmeyer; Senator Denis; Senator Gustavson; Senator Manendo; Senator Roberson; Senator Halseth; Senator Leslie; Craig Hulse, Washoe County School District; Gary S. Kraemer, Chief Financial Officer, Washoe County School District; Dr. William Roberts, Nye County Superintendent of Schools; Dr. Caroline Ross, Churchill County Superintendent of Schools; Senator McGinness; Andrew Clinger, Director of Department of Administration, Budget Director; Heidi Gansert, Chief of Staff for Governor Sandoval; Lucas Foletta, General Counsel, Governor's Office; Dottie Merrill, Nevada Association of School Boards; Marty Johnson; Dr. Keith Rheault, Nevada State Superintendent of Public Instruction.

SENATOR HORSFORD:

The Committee of the Whole is called to order.

Good morning. I would like to start our Committee of the Whole Session, today, with a few remarks. I would like to put this session in the proper context, one that is serious and substantive. Some in the Legislature have characterized these Committee of the Whole proceedings as a "dog and pony show," or a farce intended to politically embarrass members of this body. Nothing could be further from the truth. The Committee of the Whole in the Senate is about serious business of the State of Nevada that must be resolved. It must be resolved through

compromise and consensus among the 21 members of this body, the other House and the Governor. It is time for us to come together, to work together and to find the common ground to fund the budget responsibly. It will mean acting like adults and having a grown-up conversation. It will mean putting our ideological views and positions aside and doing what is necessary for the best interests of the State under these difficult and trying circumstances.

I believe that dismantling our social safety net will not position Nevada for success or improve our quality of life. Shuffling money from one account to another rather than solving our long-term fiscal issues responsibly does not position Nevada for success or secure Nevada's future. Reform to our schools without adequate funding does not position our children for success or the future economic success of our State. Ultimately, we will have to make decisions on the budget that the Governor has proposed. This body and our counterparts down the hall will have to arrive at a budget solution that is accepted by at least a majority in both Houses. That is a fact. We all have mandates from our constituents. Those of us who ran on protecting funding for education and vital public services have promises to keep as well. That is why we have to be responsible and take a balanced approach to this budget.

As one Legislator in this body, I cannot support the Governor's budget as proposed, primarily because of the deep and devastating cuts it makes to public education in this State. I know that some of you are not prepared to support alternatives. I have not put a line in the sand. I have said that some cuts will be necessary and that we will have to accept some of the proposals by the Governor. Consensus on this budget will take compromise on all of our parts. I am prepared to stay here as long as it takes, but I would prefer that we meet our constitutional deadline of passing a budget by June 6, 2011. That means we must begin working together now to find the common ground and the compromises that will allow that to happen, putting aside our ideological differences and passing a responsible budget that serves the citizens of our great State. That is what these Committee of the Whole proceedings are about. They are about helping us make informed decisions on issues like education, social services, public safety and many others. This is the first time I am aware of that our entire body in the Senate and the Assembly have had the opportunity to be this involved in the budget decision process. We have committed to the most open and transparent process that I have ever seen. It is necessary because of these difficult decisions for all 21 of us in this body, and in the other House, and so that the public will be able to understand every major decision that must be made. The decisions are not easy. Our constituents need to know how difficult those decisions are. There will not be many good outcomes. There will be reduced spending levels even in those areas that matter to us most. For those reasons, we all together have agreed to do this Committee of the Whole process. I thank those members here and I ask all of us to be professional to one another, to respect each other's views and opinions even when we disagree and to be engaged on these issues together so that as we deliberate, as we find that common ground, building that consensus, we do it together as one body working together for the best interest of one State.

SENATOR LEE:

Thank you, Mr. Chair. As a senior member of this body, with 12 years of service in the Legislature, this is the first time I have ever been involved with the budget process. I have never served on the Committee on Finance and I have never served on the Committee on Education. I see this as a wonderful opportunity for someone with my lack of skills in this area to get a better education on what I am voting on. I would like to thank the Minority Leader for agreeing to meet with the Majority Leader to bring these discussions out into the open. Most of the time, people who serve in this body get a huge book, which is the budget bill on the last day of session of all of the decisions that have been made. I have looked at that book many times and wondered how I can tell people I read all of the bills when I have one hour to read the book. I see this as a wonderful opportunity. I have constituents who call me on both sides of this issue. They are passionate. They understand their side of the issue well, but I am stuck in the middle acting as the arbitrator between those decisions. Stating, "I don't know the answer," does not go very far for them. I am interested in being able to answer those questions. This is a wonderful learning process, not only for us in the Legislature but also for the people that we represent. Mr. Chair, I needed this at this time. I want to thank you and the Minority Leader for having these debates in public so that I may understand and learn.

SENATOR HORSFORD:

Let me outline the plan for this Committee of the Whole. We will hear a budget overview for K-12 education from our Fiscal Analysis Division Staff. That will be followed by remarks from the school district representatives who are here. Then we will hear from representatives of the Executive Branch, including the Chief of Staff and the Budget Director; the Superintendent of Schools for State Public Instruction; then remarks from representatives in Las Vegas through video conferencing, who will discuss the capital reserve proposal. We will hear from representatives who will explain some of the implications of that budget decision.

MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division):

I will begin by discussing *The Senate Committee of the Whole Work Session on Governor's Budget Proposal for K-12 Education* (Exhibit C.) Three weeks ago, I had an opportunity to provide an overview of K-12 education along with other key budgetary matters based on the Governor's recommended budget. The information we will be providing today will include the Governor's recommended budget with budget amendments that have been submitted since that previous presentation.

JULIE WALLER (Program Analyst, Fiscal Analysis Division):

The budget account for K-12 education includes six accounts; the Distributive School Account (DSA); the School Remediation Trust Fund; Incentives for Licensed Educational Personnel; Other State Education Programs; the Educational Trust Fund; and the State Supplemental School Support Fund.

The first table compares State K-12 education funding approved during the 2009 75th Legislative Session and as adjusted during the Twenty-sixth Special Session, with the Governor's recommended K-12 education funding for the upcoming biennium, prior to the submission of budget amendments. The State funding recommended in the Governor's budget is 15 percent less than the funding level approved during the 2009 Session and 11 percent less than the K-12 funding approved during the Twenty-sixth Special Session. Seven budget amendments have been submitted by the administration that affect K-12 education funding resulting in a General Fund of \$42.4 million in FY 2012 and \$29.5 million in FY 2013. The table entitled *Summary of Budget Amendments K-12 Education 2011-13 Biennium (Attachment A)* provides more detail for these amendments. *Distributive School Account-Summary for 2011-13 Biennium (Attachment B)* is a summary of the DSA that incorporates the applicable budget amendments. *Major Reduction Recommendations for K-12 Education Governor Recommends-Amended 2011-13 Biennium (Attachment C)* is a table that outlines major K-12 funding reductions recommended in the Executive Budget.

The DSA is the budget through which the State distributes direct financial aid to local school districts. Each session the Legislature determines the level of State aid for schools or the guaranteed basic support per pupil through a formula known as the "Nevada Plan," which allows for differences across districts and the cost of providing education as well as in local wealth. The DSA does not include all of the funding for K-12 education, but includes only the State's portion of school district and charter school operating funds.

Each district's guaranteed level of State aid is determined by multiplying the basic support per pupil by weighted enrollment. The Governor's budget includes a slight increase in projected enrollment for the upcoming biennium from 422,570 students to 423,192 students in FY 2012 with a slight increase to 424,460 students in FY 2013. The level of basic support per pupil approved during the 2009 75th Legislative Session was \$5,251 for FY 2010 and \$5,395 for FY 2011. Those figures were later adjusted during the Twenty-sixth Special Session to a reduced level of \$5,186 per student in FY 2010 and \$5,192 per student in FY 2011 as a result of the budget reductions. The funding reductions recommended by the Governor as amended resulted in an average basic support per pupil of \$4,877 per pupil and \$4,878 per pupil for FY 2012 and FY 2013 respectively. A decrease of approximately \$518 from the basic support per pupil first approved during the 2009 75th Legislative Session of \$5,395 for FY 2011 and a decrease of \$315 compared to the Twenty-sixth Special Session level of \$5,192 per pupil.

There are some recommendations included in the Executive Budget that impact the basic support per pupil. The Governor recommends a 5 percent reduction in salaries for all State and school personnel effective July 1, 2011. This recommendation, inclusive of the budget

amendments, results in General Fund reduction of approximately \$256.5 million over the biennium. The school district and charter school salaries are not determined by the Legislature but are determined by each school district and charter school through collective bargaining. If the Governor's recommendation to reduce salaries for school personnel is approved by the Legislature, but school districts and charter schools are unable to reduce salaries through collective bargaining, school districts would be required to reduce other expenditures in other areas to compensate for this.

The Governor recommends suspending funding for merit salary increases over the 2011-2013 biennium. This recommendation results in General Fund savings totaling \$142.6 million over the biennium. School district and charter school personnel are eligible for merit salary increases based on years of service as well as the attainment of additional educational experience. For the current biennium, the Governor has also recommended the suspension of funding for merit salary increases for all State and school personnel. The 2009 75th Legislative Session approved this recommendation for all State employees except that the Legislature restored funding for merit salary increases for licensed educational personnel for the attainment of additional educational experience. This recommendation in the Governor's budget is also subject to collective bargaining.

The third recommendation is the Public Employees' Retirement System (PERS) equalization. The Executive Budget, as amended, recommends a reduction in funding totaling \$200.7 million over the upcoming biennium representing an employee contribution of 5.3075 percent to Public Employees' Retirement System (PERS). By comparison, State employees who elect the employer paid PERS option receive a salary reduction of 10.615 percent of their contribution, with the State paying the full contribution. Presently, the school district and charter school employees participate in this same employer-PERS option, and funding for salaries in the DSA is not reduced for the employee contribution. Like the two other recommendations, this PERS equalization recommendation would be subject to collective bargaining.

Finally, the last recommendation impacting basic support is a general budget reduction totaling \$238.2 million over the biennium. Based on projected enrollment, it equates to a per pupil reduction of \$286 in FY 2012 and \$276 per pupil in FY 2013.

The Executive Budget also includes a recommendation to utilize excess school district debt service reserves as local revenues for operating purposes. The Governor's budget originally proposed \$425 million over the biennium be used for this purpose. The administration submitted a budget amendment on March 28 that reduces the recommended excess debt service reserve transfer from this \$425 million to \$301.9 million over the biennium. This is a reduction of \$123.1 million. Based on this amendment the projected debt service reserve available for transfer from rural districts would total \$27.8 million over the biennium, while the projected amounts for both Clark County and Washoe County districts would total \$220.3 million and \$53.8 million respectively.

Fiscal staff, in collaboration with school district representatives, is working to analyze the information provided regarding the debt service reserves available for transfer and verifying the level of funding that would be available should the Legislature decide to approve the Governor's recommendation.

The next sections included in the Executive Budget that are also included in the DSA budget account are not part of the basic support guarantee, but represent categorical funding.

Nevada provides State funding for special education based on the special education program units. The Governor's budget includes 3,049 units each fiscal year at a cost of \$39,768 for each unit. This funding level remains flat compared to the current biennium at \$121.25 million each fiscal year. These units do not cover the entire cost of a special education teacher, but cover a portion of the cost with the remaining costs funded through the per pupil funding provided in the DSA as well as federal funding earmarked for special education.

The State provides funding for class size reduction. Over the 21 years that the State has done so, over \$1.7 billion has been approved to support additional funding to reduce class size. The Executive Budget, as amended, and inclusive of the reductions related to salaries, recommends funding \$135.3 million for class size reduction in FY 2012 and \$136.3 million in FY 2013 representing decreases of 6.2 percent and 6.6 percent for each fiscal year. One of the budget amendments that was submitted affected class size reduction. It was needed to make a technical

correction to the funding originally proposed. The Executive Budget also recommends the transfer of the class size reduction to a new program known as the Student Achievement Block Grant Program (SABG). With the transfer, this would eliminate the requirement for class size reduction, thereby making the program an option for school districts to implement under the block grant program.

Each session the Legislature determines the level of funding for Adult High School Diploma (AHS D) programs for the general public and for inmates within prison facilities. The Executive Budget as amended recommends \$16.3 million in FY 2012 and \$16.7 million in FY 2013 to support these programs. One of the budget amendments submitted updated enrollment growth projections based on actual enrollment, resulting in a funding decrease from Governor's original proposed budget. The Governor does not recommend transferring this line item to the student achievement block grant so it would remain a line item in the DSA budget.

The Governor recommends \$6.7 million over the biennium to continue early childhood education programs and recommends transferring this funding to the proposed student achievement block grant where the program could become optional rather than a required program based on school district needs.

The Executive Budget continues funding for the regional professional development programs of approximately \$14.8 million as adjusted by an amendment to reflect the reductions to the salary recommendations for all other budget accounts.

The Governor has two new programs he is recommending for the School Remediation Trust Fund. The first is the SABG program, which would combine the majority of categorical funding in four main K-12 budget accounts: DSA, the Remediation Trust Fund, Incentives for Licensed Educational Personnel, and Other State Education Programs into the SABG, with a goal of providing flexibility as well as increasing student achievement.

The Governor had originally included a 5.4 percent budget reduction to the funding transferred into the SABG, but submitted an amendment that eliminated the \$11 million budget reduction for FY 2012 so there is no budget reduction proposed for FY 2012. The amendment also postpones the implementation of the SABG program until FY 2013. The total funding recommended for transfer to the SABG is recommended at \$161.6 million for FY 2013.

The Governor recommends reductions to the all-day kindergarten program. This program has been funded through the State since FY 2007 and provides funding for approximately 465 full-day kindergarten positions in 128 schools statewide. The schools are selected based on a free and reduced lunch percentage of 55.1 percent of the student enrollment. Budget reductions recommended for full-day kindergarten total \$4.5 million over the biennium and include the salary related budget reductions, which total \$6.7 million. Net of these proposed reductions, the funding recommended is approximately \$41.7 million over the upcoming biennium to continue the full-day kindergarten program. The Governor recommends \$20 million in FY 2013 to support a new teacher performance pay program. The 2007 74th Legislature had appropriated funding of \$10 million over the biennium to support a performance pay program as outlined in A.B. 3 of the 74th Legislative Session. That funding was subsequently cut due to budget reductions. During the Work Session of the K-12 and Higher Education Joint Subcommittee on March 31, subcommittee members had expressed general support for the Teacher Performance Pay program, although several members did express concern that this may not be the appropriate time to implement such a program. Some members suggested that the \$20 million of recommended General Fund could be used to offset other K-12 budget reductions.

The Governor has one recommendation in the State Supplemental School Support Fund budget account. He recommends continuing to defer the funding from Initiative Petition No. 1 (I.P.1) of the 75th Legislative Session room tax to the General Fund. The State Supplemental School Support Fund was created by I.P.1 of the 75th Legislative Session that became law in 2009. According to that legislation, for the current biennium, the funding was directed to the General Fund, but beginning on July 1, 2011, that funding was to be directed to the State Supplemental School Support Fund to support the academic achievement of students and to retain qualified educational personnel and non-administrative employees. There had been discussion in earlier budget hearings regarding the I.P.1 of the 75th Legislative Session room tax. Because the 2009 Legislature enacted I.P.1 of the 75th Legislative Session, rather than by a vote of the people, there is no restriction on the Legislature subsequently amending an Initiative

Petition. If the Legislature had not approved I.P.1 of the 75th Legislative Session, and it was approved by the voters, then there would have been a three-year waiting period before an amendment could have been imposed. The funding for the room tax directed to the General Fund is estimated to be \$221.5 million over the upcoming biennium. On May 2, the Economic Forum will reforecast these revenues. Those figures will then be updated.

The Incentives for Licensed Educational Personnel is also in the K-12 budget. This is the budget account that funds the one-fifth retirement credit program as well as the incentive pay for licensed educational personnel. The grandfathered provisions of the retirement credit will conclude in FY 2013. The Governor reduces funding for the incentive grant awards in FY 2012 by \$1.9 million and eliminates the funding for the incentive grant awards in the second year of the biennium resulting in General Fund savings of \$6.1 million.

Other State Education Programs is a budget that provides pass-through funding for various programs to school districts for the Apprenticeship program, Educational Technology, Library Database, Career and Technical Education, National Board Certification program for teachers, etc. The Executive Budget recommends a budget reduction in this account, totaling \$2.1 million over the biennium. This is prorated among all programs. This budget reduction would occur in this account prior to recommending the transfer of all funding to the new SABG program. The total funding that would be transferred is \$7.56 million in FY 2013 the second year of the biennium.

SENATOR CEGAVSKE:

I am glad that you emphasized that the DSA is State funding only for the per pupil that we have. We do not have the per pupil funding that is under the Local School Support Tax (LSST) property tax, and others. Do we have a total of what the local taxes are?

MS. WALLER:

Are you referring to the total expenditure per pupil including local and federal funding? The State does not have that figure. We are not provided with that information. The school districts provide that information in their financial statements. Various organizations such as the National Center on Educational Statistics provide that information. There is a time lag. The latest information they have presented goes back to 2008. At that time the level of funding was approximately \$8,200 per pupil for total student expenditure as compared to the per pupil expenditure provided through the DSA during that period, which was approximately \$5,212. There is between \$2,000 and \$3,000 more per pupil provided by the local funding as well as federal funding.

SENATOR CEGAVSKE:

With that funding, is there any local construction funding included in any of those figures that you are aware of?

MS. WALLER:

That \$8,200 does not include a breakout of capital construction or debt service funding.

SENATOR CEGAVSKE:

Do we have an estimate of what that would be per pupil, if we included that?

MS. WALLER:

The Governor's recommendation to utilize the excess debt service reserves as local funding is a funding source to fund the per pupil in the DSA. There are multiple sources of revenues that are used to fund that \$4,877 that he is recommending per pupil. The use of the debt service reserves, if the Governor had not included that in the recommended budget, would have increased the General Fund requirement.

SENATOR CEGAVSKE:

I was not indicating the debt refund. The bond money we received from the different counties, for instance, Clark County, has bond reserve money, not the fund we are talking about. I am talking about overall construction, when we build a school. There is so much per pupil that

you divide for per pupil funding. How much in building construction costs do you add to per-pupil funding?

MS. WALLER:

We do not have that information available. We can try to find that information for you.

SENATOR CEGAVSKE:

Thank you.

SENATOR HORSFORD:

Could that information be broken out by State support, the local level support, LSST property tax? In the rural counties, there is the Net Proceeds of Minerals funding separate and apart from federal money which is restricted. There are many federal dollars, but some of those dollars are restricted. For instance, special education is not on a per pupil basis, it is on a per unit basis based on those children eligible in that category of funding. It would not be fair to take the whole federal allocation and apply it across every child because not every child receives that allocation. Separate from that would be the capital related allocation. If we could see those broken out in sections, then we might be able to evaluate more in an apples to apples comparison, which is what Senator Cegavske would like see.

SENATOR WIENER:

Could we also have an accounting of how much federal money is being brought into the State for meals programs in the classrooms? Is there a way to find out how much money we are leaving behind in Washington?

SENATOR CEGAVSKE:

What did we do in 2007 and 2009? How much of the general bond did we take? We did not take anything from the reserve, but to balance our budget we used funding from the 2007 and 2009 sessions. Can you get us those numbers?

MS. WALLER:

That was for the 2009-2011 biennium. The Legislature approved \$10 million each year from funding provided in the Capital Construction Fund for Clark County. During the Twenty-sixth Special Session, there was an additional \$25 million added leading to a total of \$45 million for the 2009-2011 biennium which was used as local funding available for operating purposes.

SENATOR KIECKHEFER:

What is the total General Fund reduction to K-12 contained in the budget? According to the chart on page 1 of *The Senate Committee of the Whole Work Session on Governor's Budget Proposal for K-12 Education*, in terms of the DSA, it is a \$596 million reduction based on what is currently allocated after the special session. Is that accurate? What would be on top of that when you consider all other budget accounts?

MS. WALLER:

Under attachment C, *Major Reduction Recommendations for K-12 Education Governor Recommends-amended 2011-13 Biennium*, K-12 General Fund budget reductions are summarized. The total, including the excess debt service reserve transfer, which reduces the General Fund required to fund the DSA, shows a total of K-12 reductions at over \$1.37 billion over the biennium.

SENATOR KIECKHEFER:

For the DSA, this is versus Legislature approved. Is that accurate?

MS. WALLER:

These are reductions included in the Governor's recommended budget as amended. Attachment C is not comparing with 2009 and the Twenty-sixth Special Session. These are actual dollar reductions recommended in the Governor's budget.

SENATOR KIECKHEFER:

So what is listed as General Fund portion would be the \$221 million, that is in I.P. 1 of the 75th Legislative Session, is not a General Fund cut. Correct?

MS. WALLER:

You are correct. That would be a reduction to the K-12 education for that funding. It would have been directed to that account outside of the Governor's recommendation to continue the deferral to the General Fund.

SENATOR KIECKHEFER:

So would the excess debt reserves. Correct?

MS. WALLER:

The excess debt service reserves is a directive to have the school districts transfer funds from their capital project or their debt service and utilize those as operating expenditures. If this recommendation were not included in the Governor's recommended budget, then the funding from the General Fund that the State would be required to provide would increase by that amount.

SENATOR KIECKHEFER:

It is a way to offset. Therefore, I should back out the \$302 million from the debt reserves and the \$221 million from the I.P. 1 of the 75th Legislative Session money from the \$1.37 billion. In the end, the General Fund portion on this chart would add up to about \$850 million. Is that fair?

MS. WALLER:

I would clarify that the debt service reserve transfer, if that recommendation was not included, that the General Fund would be \$302 million higher over the biennium.

SENATOR KIECKHEFER:

I understand, but that is not General Fund money currently that we are reducing the level on.

MS. WALLER:

If the Legislature does not approve that, then that would be a required General Fund add back.

SENATOR KIECKHEFER:

So transferring that money offsets the need for \$302 million additional in the General Fund?

MS. WALLER:

That is correct.

SENATOR HORSFORD:

We will now hear from school district representatives. The Committee would like to hear what the plans are for our district leaders based on the scenario as presented in the Governor's recommended budget and what the impacts of those decisions would be for the local school districts. If they would share with us the discussions conducted by their elected school boards on how they would approach these budget reductions to K-12, that would be appreciated.

DWIGHT JONES (Superintendent of Schools, Clark County School District):

On behalf of the trustees, the staff, students and the community of Clark County, we appreciate the opportunity to have a discussion and address the impact of the proposed budget and what impact it would have on our school system. We are working hard to redesign our system to obtain better results. We are clear on the mission. Even though we are dealing with a challenging budget, we want to stay focused on the results and the mission of the school district. In that effort, we are trying to find the right balance.

We understand that the State is in a crisis and everyone is being asked to make certain sacrifices. We understand that the Clark County School District, equally, will be in a position to make sacrifices. The difficulty for us is trying to find what is the right level of sacrifice, which I know is a difficulty for you, individually, as well as a body.

The magnitude of the expected reductions for us will be for \$400 million out of a budget of \$2.1 billion. That is about a 19 percent reduction. The reductions will require us to think

differently about how we go about doing our work. We think there could be some benefit from the downturn in the economy, providing us with the opportunity to think differently about our work. We expect to see changes across the school district.

The Clark County trustees have already declared a reduction in force. This means that some of the administrators, teachers and support staff will be dismissed. It will mean significant change to nearly every aspect of the district operations. Understanding that change is inevitable. Based on what is being proposed, it will require serious change. We will be rethinking our school environment, questioning some of our practices, examining some of our assumptions and looking to innovation as a critically important component of this transition. There is no better time to have this analysis of how we do our business. We want to start with the end goal that all students will be ready by exit.

We have had clear conversations about the investment the taxpayers make to our system and the outcome they should expect at the end of the day. The outcome should be that students should exit our system prepared for whatever is the next opportunity and that they would be able to do that without remediation.

We think there are some consistent issues to look at in our redesign to create the expectation of students being ready by exit. We think an investment in our teachers and leaders is going to be required as we make that investment. Our effort will be to have an effective teacher in every classroom and an effective leader in every school. We know, in making that investment, that we have to deal with those who would not be able to perform their duties and we will exit them from the classroom or from the school. We think we have increased flexibility to obtain a greater return. That means giving more autonomy to our schools and equally, not making that a blank check, but holding our schools accountable for results.

The school level is where education actually takes place. It is important for us to empower our schools and the leaders in our schools, including the teachers, staff personnel and the administrative leaders, and for them to have some autonomy over people, resources, as well as a budget, with the outcome being that we will have better results for all students. We know to do this will cause a decentralization of the central office. We think there has to be a clear alignment to what matters.

Though many people do not clearly understand standards, the common core standards that will be implemented are necessary. I have been supportive of Nevada's decision to adopt the common core standards. It will raise the bar and create a challenge to help teachers to teach at a higher level.

Literacy matters. To have some form of social promotion has not worked in the best interest of the students, staff or the parents who have entrusted us with their young people. Starting with the first grade, we will make certain that students read at grade level. Their failure to be on target to read at grade level will mean that we will intervene at the earliest possible level. Our chances to intervene will be less expensive and our chances for success will be higher when we intervene early. We will reinvest our scarce resources in our early childhood efforts. We will check again in third grade, allowing us to intervene early while the students are still formative readers. We will check again at the fifth or sixth grade level. These are the main pieces of the curriculum and standards changes.

There needs to be useful information and research as a platform for learning and improvement. We need to improve the metrics that guide our system.

We are supportive of the Governor's support to move to a growth model system, but with Dr. Rheault's support and his excellent decision to adopt the Colorado Growth Model as the growth model, we will implement the model in this State. Those optics will allow us to look at how we are creating targets for students along the achievement spectrum. It will also allow us to make some critical decisions for students who need to catch up. We will be able to look at an apples-to-apples comparison of how they are doing and compare ourselves, so that we may make decisions for the majority of our students who are somewhere in the middle. We need to make certain they can keep up, and then focus on those students who are keeping up and afford them an opportunity to move up. We know that our higher achieving students have not competed at the same level as other higher achieving students across other states. We must focus on students no matter at what level they are in the system.

We think the impeded growth model provides the opportunity for performance framework that defines teacher success in terms of student success. We have been supportive of conversations you have had to attach achievement to the ultimate effectiveness of a teacher as well as for that achievement to be attached to the ultimate effectiveness of administrators and the superintendent as well. The whole system should be more accountable to the achievement of the youngsters.

We want to continue to focus on choice and innovation. We think that is important whether looking at on-line learning or blended learning. We think the opportunity for parents to make a choice on where they would send their children is important to the system and important to the necessary buy-in that we need from parents. Choice and innovation will continue to be part of our conversation.

This is a brief outline of some ideas we are considering. With so much change occurring, some things will never change. One of the constants is that leadership really matters. That is leadership from our trustees, myself, and at the building level, whether it is principals or teachers. The best leaders rising to meet these challenges soak up uncertainty and help others to remain focused on what matters most. Even though we are dealing with a challenging budget and constraints, our focus has to stay on the young people who we are serving. We have much work to do. We have to continue to partner with the teachers and administrators and the whole staff within our school district to yield better results.

The proposed budget will have a major effect on the Clark County School District. We have posted a tentative budget that cuts 20 percent out of central office administration and 50 percent of the textbook and supply budget. The tentative budget decreases the level of support, whether coaching support from special education facilitators or support from English language learners and facilitators and Educator's Certification System (ECS,) literacy facilitators. We would cut those who are outside of the classroom by about 25 percent.

We have asked for union and staff to make certain concessions. These will have to be negotiated. It is a difficult balance. We have to get better results for students, but at the same time, we are asking our employees to make substantial sacrifices. We understand that this combination is not the best mechanism to obtain the results we want, but it is necessary based on the crisis we are in. We are asking employees to look at their health insurance and assume approximately 20 percent of the cost. We are asking employees to look at furlough days. The number of furlough days we have proposed for negotiation would be approximately 8 furlough days for 9-month employees, 10 furlough days for 10-month employees, 11 furlough days for 11-month employees and 12 furlough days for 12-month employees. This is a substantial sacrifice of the employees of the school district. We have proposed staffing counselors and school support staff by 97 percent in the budget.

The most dramatic effect on us is the proposed increase in class size in a district where the class size is already too large. In our secondary schools, the average class size is 33 students. We are struggling in some areas to find space if the class size increases to house, much less try to educate, all the students. We have recommended a three student class size increase for elementary schools and a three student class size increase for secondary schools. At our last trustee meeting, it was proposed using the remainder of about \$19 million that we have in Edujob funds to offset the class size by one student at the secondary level. This means for a middle school and high school, a two student increase versus a three student increase.

It is important to note that as we are trying to work our way through this difficult balance, wanting to reform our system, we have a clear vision of how we can do that. We must do it. The difficult balance is to make certain there are sufficient resources. I believe I can align some of the current resources toward the greatest need. It will take some time to do that, but I have committed to the trustees that this will immediately be part of my work in the school district. Some of the things being proposed will take holding the line, or in some cases, I may not have sufficient resources to align to some of those greatest needs.

We continue to welcome and appreciate the opportunity to have this conversation with you. We remain optimistic that even with the difficult request we are making of our employees, that employees will consider certain concessions. We understand we will have to go to the bargaining table to make those decisions, but if we do not get certain concessions, it will mean

more substantial job losses, which not only affects the school district, but also affects the city of Las Vegas and Clark County.

I appreciate the opportunity to have this dialogue. The trustees appreciate that you are continuing, as a body, to consider the impact it will have on children and staff in the school district and, ultimately, the outcome we all want for our children. I have been on this job since December 15, and have learned a great deal. We want to be responsive to any questions you may have for us. Thank you, Mr. Chair.

SENATOR HORSFORD:

You referenced between 8-12 furloughs depending upon the contract period. Which classification of workers are those for? Are they teachers, paraprofessionals, education support staff, or administration? How does that apply?

MR. JONES:

That would apply to all employees, all classifications within the school district.

SENATOR HORSFORD:

We know what a 12-furlough process looks like, because that is what our State workers have been under during the last biennium. This is a range of between 3-5 percent reduced take-home pay?

MR. JONES:

It would be approximately 5 percent.

SENATOR HORSFORD:

Are any of those furlough days intended to be instructional days out of the 180 days in the school year? Districts vary a little, but Clark County is under a 180-day instructional year.

MR. JONES:

We are trying to stay away from instructional days and do not have the liberty to affect instructional days. The focus of what is being proposed for teaching staff and others that directly support our schools are days that are outside the instructional day. The trustees would appreciate the option to say we have to look at everything, but that is not a starting place for us to focus on instructional days.

SENATOR HORSFORD:

Can you address the impact of the capital reserve proposal and how that impacts your district and explain the scenario whereby your revenues do not come in as projected. What happens? What will you be forced to do? What could be the impact on the constituents of Clark County?

MR. JONES:

I will ask Mr. Weiler to give a detailed description as he has done for the trustees and in many community meetings held throughout the Clark County School District. The trustees voted unanimously to oppose the effort to take the debt service funds believing strongly on a few key fronts that the trust of the voters is very important. We know we continue to have significant facility challenges and understand clearly that it will not be too long before we will have to go back to the voters because we continue to have roofs that are leaking, overcrowding, and to have substantial facility challenges. Part of their concern is that if the trustees or the school district do not take those funds, it will be a hard sell to the voters that they can trust that what they approved on the ballot, and whether it will be used as was intended.

It creates a challenge as to how we will pay our debt. The trustees will have to make that decision. If this becomes a temporary fix, if those debt service funds are removed and the economy does not improve, we will be right back where we are today.

JEFF WEILER (Chief Financial Officer, Clark County School District):

The Debt Service Reserve requirement was set up in 1997 when the 69th Legislative Session enabled us to have a multi-year capital program. We call it the 1998 program. It went to the voters in 1998 in Clark County. Other things have happened in other districts and some of the specifics for some of the other districts are a little different. We have something they do not, and

they have things we do not. There are three primary sources of revenue in Clark County that support our capital program. One is the property tax, which in Clark County is .5534, the rollover rate. The other two sources include the portion of the room tax and the real property transfer tax. Property tax is about 76 percent of the funding. It is going up because the other two sources, room tax and real property transfer tax, have gone down significantly during the past few years. Property taxes have gone down as well.

The Legislature set up a reserve requirement, which stated we have to have a year's worth of debt service. Our next year's mortgage payment in the bank, as a reserve is used to insulate the property tax. Without a reserve, if property tax revenues or those other two pledged revenues do not come in sufficient enough to cover the debt service of principal and interest, then the reserve is there. It is the only thing we can use it for. We cannot use the reserve for construction. Without additional authority, we cannot do anything else with it. It is there as an account to insulate the property tax. We had a balance at the beginning of this year of \$480 million and our debt service reserve will continue to go down because, starting next year, our principal and interest payments on our outstanding bonds will exceed what we project the property tax, the room tax and the real property transfer tax to be.

We have been working with staff at the Governor's level and with your staff on the numbers we are using. You will receive additional information from your staff as they analyze the numbers and reconcile issues. We had a balance at the beginning of this year of \$475 million. The issue is to look at it over a multi-year span. As we project in the next six years, that without anything, without what has been proposed here, our debt service reserve will be down to zero. That is because the underlying revenues are less than what our mortgage payment is now. The reserve is working as it was intended when it was set up. Under our projections without any of the reserve being taken, we will get through the next five to six years and will bottom out with no reserve balance. The mortgage payment should start going down as bonds mature. The property tax rate, unless we extend the rollover through voter authority, the property tax rate will start going down. If any of the debt service reserve is taken as is proposed, then we believe that within a year or two, without the debt service reserve and the property tax rate still at .5534, then we will have to increase it or we will have to restructure our bonds. That is called a non-economic refunding. It will extend our mortgage, pushing out maturities into the future so that the principal and interest payments are within the available revenues.

This is a simplified overview of the process. Your staff is working on reconciling for us as well as the other 12 districts that have a rollover issue.

SENATOR HORSFORD:

If the revenue projections under the Governor's plan do not come in as anticipated, the impact in Clark County will be, in a year to two, directed under your convenience to implement the property tax increase either through the extension of the bond or by raising the property tax rate. Is that correct?

MR. JONES:

Yes, sir.

SENATOR HORSFORD:

We will hear from the administration later. Our staff, the budget office, and the districts are all analyzing these numbers together. At some point, they have to come to a consensus as to which revenue projections we can depend on. That is a big part of this decision. I am not comfortable making a decision that could impose a property tax increase on the constituents of Clark County a year or two from now because of the decision we will make in this Legislature. There are those who are against any new taxes. This could be considered a tax increase on our constituents. The decision we make could impose that. We all need to be cognizant of that.

SENATOR HARDY:

Thank you, Mr. Chair. As I look at the *Major Reduction Recommendations for K-12 Education Governor Recommends-Amended 2011-13 Biennium (Attachment C)* given to us, the DSA has subheadings of 5 percent salary reduction, merit increases suspension and PERS equalization. Below that is the general budget reduction in basic support. Recognizing that the

general budget reduction in basic support is probably how much is going to be cut out of the base budget of the schools, how will that affect how many people are losing their jobs? We are interested in how many positions will be lost. I understand that 57 percent are teachers, 43 percent are staff. At an \$80,000 average teacher salary, with 3,000 people out of the estimated \$238 million, half of which would be teachers. That is 1,500 teachers who could lose their jobs. In the Clark County School District, there are about 800 permanent substitutes or substitutes of some kind. We are always short of people to hire leaving us with unfilled positions. How many people are getting out of the school district or are retiring? If there are 400-600 leaving, then we are down to 700-800 teachers losing their jobs due to lack of basic school support. Is that accurate?

MR. JONES:

Some of your numbers are somewhat accurate. The average teacher's salary is about \$53,000 in Clark County versus the \$80,000 you stated. You are in the range of estimating how many teachers could lose their jobs. We have some unfilled positions. Some of those were by design. We saw the difficult budget coming. There was a decision made not to do a total freeze on positions because we struggle to get math and science teachers and some categories of special education teachers. We stopped filling most positions. There were some critical positions that we still try to fill. There are approximately 400-500 potential vacancies that could be slots for teachers who be cut through the RIF process that could be filtered into. The Clark County School District has had a retirement range of approximately 900-1100 employees. We have not had those numbers come in. Using past data we could make a projection of about 1,000 potential positions. Not all would be teaching positions, but the majority would be. There would be 800 to 1,000 that could still be cut. This is a perfect storm. The Edujobs money is about to run out. We are reallocating those dollars to support the class-size increases in the secondary schools. The ARRA funding runs out on June 30. We are asking for substantial sacrifices from our employees. They have to be negotiated. If certain concessions are not realized during negotiation, those numbers could double or triple, because of the number of jobs that could be potentially saved if employees make a decision and the bargaining groups agree that there would be certain sacrifices. Some assumptions are built into our budget that could have those numbers continue to increase.

SENATOR HARDY:

Does the \$53,000 average salary include benefits?

MR. JONES:

It is about \$70,000 average, including benefits.

SENATOR HORSFORD:

How many employees would you have to lay off if the concessions were not realized?

MR. JONES:

That number would be between 2,500 and 3,000 employees if, during negotiations, some of what we have asked employees to consider is not realized.

SENATOR HORSFORD:

Has there been an analysis of what the economic impact to the economy would be for the loss of those employees?

MR. JONES:

We have done some analysis, working with Jeremy Aguero. I do not have the information with me.

MR. WEILER:

We have done some analysis. The total positions lost could be as high, without concessions, as 5,600 total jobs lost. The estimated annual impact to our economy would be about \$889 million. That takes the 2,400 positions we are proposing to cut, using the economic numbers we received from Mr. Aguero. There is about a 2.25 multiplier. For every position we

cut, the ripple effect throughout the economy is at about 2.25 additional people in the services industries.

SENATOR HORSFORD:

For a \$400 million reduction there is an \$880 million overall negative impact to the local economy. Even if you do not lay off those workers, instead, reducing their wages through these attacks on the middle class, that means less spending they have available to multiply into the economy.

MR. WEILER:

That is a fair assessment.

SENATOR SETTELMEYER:

Thank you, Mr. Chair. I am shocked that a collective bargaining unit would have 5,600 people fired rather than make a concession. I say that as an employer who took a 33 percent pay cut. My employee makes more than I do.

How many non-teaching workdays, collaboration days are there? I have constituents who are teachers who are torn on this subject of the collaboration days. Half of them love them, half of them hate them. We have four or five in Douglas County. How many are there in Clark County? Those are parent-teacher conference days and other days that are non-teaching days.

MR. JONES:

We have four days that would fit the category of what you are stating.

SENATOR DENIS:

I have heard the number, 33 students, as an average class size. Is that in secondary or is that overall for the district?

MR. JONES:

It is in secondary schools, approximately 33 students is our average class size.

SENATOR DENIS:

The recommendation, under the proposed budget, would be to increase that by three.

MR. JONES:

Our proposed budget was to increase that by three. We used some left over Edjobs money to decrease that by one. As being proposed, now, that would increase by two.

SENATOR DENIS:

In secondary, you are including middle school and high school. My concern is that in the high school, some of those classes are already large. What does that translate to when you are looking at the high school classes? I have been in some of the classes where students are sitting on the floor. These conditions exist under the current budget. So does the three translate to higher in high school and less in middle school? How will that be determined?

MR. JONES:

It will be determined by giving principals and their staff autonomy at the building site to make some decisions about what they would propose as a reduction based on the class-size increase. We agree with your assessment that we think 33 is a high number. Some of our principals would say that in some of our AP classes, that is not 33 students, but 40 students per class. Some will make the assessment that increasing class size as long as you have an effective teacher, it does not matter. I do not agree, based on experience. We can all find research that will support our positions. The research I have looked at states that when you get above 30 students, regardless of how effective the teacher is, it has an impact, especially for students who might be struggling because of the potential lack of individualized attention. In fairness to our teaching staff, we are already in a crisis mode as we are trying to increase and get better results. What is being proposed, in some cases, would put us over the top. If you spoke with teachers or principals, they would agree that it is going to create a significant challenge.

SENATOR DENIS:

How does that impact your projections as far as teachers who are retiring? Is that a higher number than normal? My concern is that we are going to lose some very good teachers because of the uncertainty of what is going on.

MR. JONES:

It would be similar to the past two years. Before the last two years, the number of retirements had been around 2,000. Over the last two years that has decreased by about 50 percent of those who have proposed to retire. We have not studied what has made a difference causing that number to go down. We think there will be about 1,000 employees retiring, with a high percentage of those being teachers. It will have an impact as we move forward. We want good, effective teachers. Seniority in many cases, becomes a value add. We will lose some of that seniority and expertise out of the classroom. I am not saying that all teachers with seniority are effective, but we find that, with experience, teachers typically improve and perfect their practice.

SENATOR DENIS:

If we are losing teachers to other states, are other states in a better situation than we are? Are they hiring?

MR. JONES:

Just having recently left the post as Commissioner of Education for the state of Colorado, the majority of states are in a similar position. They may not be at the same level as Nevada, but all states are dealing with the crisis of budget. The downturn in the economy has left no one untouched. If you are in a position to hire, there are a number of quality candidates available from state to state. Based on our RIF process, we are not in a position to hire new employees. Seniority trumps in our RIF process. We will be, like many states, letting go some of the teachers who were last hired. Many states are in a similar position.

SENATOR GUSTAVSON:

Thank you, Mr. Chair. Thank you for the job you are doing in Clark County. I like your ideas about fixing the problem of social promotion and giving parents a choice in education.

You stated there are 33 students in classes. Is this with team teaching like in Washoe County?

MR. JONES:

The projection of the average of 33 is based on one teacher with 33 students.

SENATOR GUSTAVSON:

Thank you.

SENATOR KIECKHEFER:

I am frustrated by what I heard at first. As a state, we implemented 12-day furloughs, once a month for our employees. That is 4.2 percent in terms of salary savings. You have asked for a concession that is lower than the Governor requested. If I was going to go into a negotiation knowing what my target was, I would ask for something higher than that and would try to negotiate down, instead of starting below it. If that is what you are asking for, I am concerned why you did that considering the Governor has put almost \$600 million in concessions. You asked for less and I find that troubling.

SENATOR HORSFORD:

I would like to clarify that it is 4.6 percent for the State workers. It is my understanding that the school district is in negotiations, and there may be a limitation on how much Mr. Jones can explain based on the rules of the National Labor Relations Board on contracting. Superintendent, please try to answer the Senator's question to the best of your ability.

MR. JONES:

Essentially, it is based on number of days. We are asking employees to make concessions including an increase of 20 percent in their health insurance and picking up a portion of their PERS equaling 8-plus percent, which exceeds what the Governor has proposed. We are asking for tremendous concessions even beyond what the Governor has proposed.

SENATOR KIECKHEFER:

That is not what I heard. I am glad to hear that. When it comes to a reduction in force, based on our current system of last in, first out, you call seniority a value-add. I would agree with that, but it is not the basis of value. Do you believe that within this system, we currently have, that you will be able to retain your best teachers? Are you at the mercy of State law in terms of how we allow that reduction to take place?

MR. JONES:

I want to clearly state for the record, that I do think experience counts. I think we have some experienced teachers who may not be our most effective teachers, just as we have some teachers who have been hired over the past two years who show promise. Based on the RIF process, it deals only with seniority. We would like to have conversations with our bargaining group to see how we might include other ways in looking at the RIF not just basing it on seniority. I think our bargaining agencies are willing to have that conversation. That will be part of the conversation during negotiations. We are monitoring any changes from here as well.

SENATOR KIECKHEFER:

When we talk about how these reductions would be implemented by a district, there is a difference in how they would be implemented within our current system with some of the reforms being discussed by this Legislature. We need to look at the entire situation that we are giving school districts and school superintendents to implement these cuts.

SENATOR MANENDO:

For those of us not on the money committees, this discussion is beneficial. I had an e-mail from a woman who is a teacher-librarian at Sandy Valley, Good Springs and Blue Diamond Schools. She is a librarian for all three of the schools. She is doing the job of three. Last Tuesday, her job was eliminated. Have we gone to the point of eliminating positions?

MR. JONES:

That assignment has been consistent for that employee. Those are small schools. We standardize the capacity of a single librarian to how many students. That is how we allocate. She would fit within that standard.

SENATOR MANENDO:

That position has been eliminated or is on the chopping block to be eliminated?

MR. JONES:

We have proposed that buildings work with their staffs to make proposals as to what they would ultimately cut. I am not certain I am in a position to accurately answer your question because I am not certain if in those buildings, if that has been proposed to be eliminated or not. I would have to follow up on that individually because our buildings and their recommended cuts are just starting to come in. I am not familiar whether that position has been recommended to be excised or not.

SENATOR MANENDO:

I was not certain as to whether this was already occurring or how widespread this is. This is not the first e-mail I have received from an educator or librarian who has said their position has been eliminated. She spent \$24,000 getting her master's degree and now she is looking to move out of state. She has her house up for sale. She has to go. I am concerned about that.

SENATOR CEGAVSKE:

Thank you, Mr. Chair. I asked staff for the local support funding. I would hope you will be able to give us that in a timely manner. We have a difficult time, not only from Clark County, but from the other school districts in obtaining information in a timely manner. I know you are working on the issue for me about the \$800,000 in iPads that were purchased and where that money came from. It has been several weeks since we have heard anything on this issue.

Based on the comments you made about the debt service, you said the school board voted unanimously against using that money for anything. Was that either one of the bills? Mrs. Smith

had a bill from the Assembly and we have the Governor's proposal for that money. Did they support either one of those?

MR. JONES:

The vote that was taken by the school board was that they did not feel that the debt service funds should be used for either bill.

SENATOR CEGAVSKE:

When the Capital Construction Funds and the Redevelopment Agency Funds were used, did the Board take a vote on that usage for the last session? Did they weigh in on that? Was there any objection to that money being used?

MR. JONES:

I will yield to Mr. Weiler who was here during that time.

MR. WEILER:

I do not believe they had a formal motion opposing it. There was concern about it.

SENATOR CEGAVSKE:

Along those same lines, if the money keeps flowing in and you are able to continue making payments, that fund stays there, what would you or could you use that funding for?

MR. WEILER:

Under current law, all it can be used for is debt service. We cannot use it for construction, operations or anything else. That can be changed, but we cannot change that.

SENATOR CEGAVSKE:

Let us address the construction bond money used for remodeling old schools and building new schools. There has been a lot of talk about the usage of that money for computers. Is that strictly for rehabilitation and new schools? We have a fenced off budget for technology and textbooks. We have used those reserves not used to offset budgets before. We might not need that reserve for the technology because it is not used as much as it was in the beginning. Are you using both the construction money and the reserve we have fenced off for technology and computers?

MR. WEILER:

Are you talking about the debt service reserve?

SENATOR CEGAVSKE:

No, I am not talking about that. I am asking about construction?

MR. WEILER:

In 2001, the 71st Legislative Session amended the law to allow us to purchase computers out of capital funds, bond funds and other two pledge revenue sources that are capital. We do it for new schools. We equip new schools with computers. As we do renovations and modernizations of schools, we include replacement of computers and upgrades of computers and other technologies in schools.

SENATOR CEGAVSKE:

Do you have a plan to submit to let us see what you have for renovations and what those issues are and how the funding that is left is going to be utilized?

MR. JONES:

We do, and we can.

SENATOR HORSFORD:

On the issue of the previous actions by the Legislature on any of the reserve accounts, it is my recollection that the last time it was about \$25 million that was swept. How much of the \$302 million proposed to be swept by the Governor is from Clark County?

MR. WEILER:

That is \$220 million for Clark County.

SENATOR HORSFORD:

The Governor is proposing taking \$220 million out of the capital reserve, which could impose a property tax increase on the residents of Clark County versus an action, which I know the district was very concerned about when we swept the \$25 million in 2009. The body needs to understand why this is at the level it is compared to the previous action.

The Clark County School District's bond rating has been high in the past. What impact on that rating is occurring now?

MR. WEILER:

Our bond ratings from two of the agencies have been downgraded over the past several months. There are three agencies: Fitch, Moody's, Standard and Poor's. You can see their interpretation as to why. It is in the rationale we provided. One of the factors is the potential for the debt service reserve to go away. When it has been there, they look at it as a shock absorber to say there is money there should the other money sources not come in. If it is not there, it significantly affects things. There are other factors as well. You can read the report.

SENATOR HORSFORD:

The report is on NELIS for those members who want to review it. It is the Fitch rating. They downgraded the school district's bond rating. What does that do to other local and State bond ratings when such a large entity as the Clark County School District's bond rating is downgraded? Does that mean increased interest if we borrow?

MR. WEILER:

I cannot speak for the other districts. The bond rating is like your individual credit rating. If your rating goes down, then the interest you pay on future bonds or refinancing will be higher. If ratings continue to go down, it becomes harder to issue bonds. We are still in the AA category. When bond ratings drop below AA, the number of investors looking at these bonds, significantly decreases. They are looking for higher quality credit ratings.

SENATOR ROBERSON:

Superintendent Jones, I am grateful you took this job. We need great leaders in this State. It is obvious that you are a great leader. If you get the opportunity to do the job the way you want to do it, I believe you are going to turn the Clark County School District around.

Do you believe that it is a fair statement that your employee recruitment efforts, your personnel decisions and your discretion in putting available education dollars where you believe they can be most effective are all being handcuffed or constrained by the current collective bargaining system?

MR. JONES:

That is a hard determination to make because we have had good relationships with our bargaining groups. We are all dealing with difficult times. As you are wrestling with it here, we are wrestling with it within the district.

Let me give you an example of the administrators' bargaining group. I made a decision in support of grants we submitted to the State about school improvement. We turned over half of the staff. We turned over three of the principals at the high schools being considered. Those were difficult decisions to make and difficult for employees. They were important decisions for us to make to be certain we turned those schools around. It was necessary for us to be in a position to have those funds awarded by the State. There are incentives to recruit. There is pay for performance going into those five schools that are being turned around. We asked that when considered in the RIF process, that the administrative team hired would not be RIFed. If we turn over the staff, and then hire new staff, then if the RIF process comes in and that staff intentionally hired to help turn that school around is moved out, we did not think that would be beneficial for the school. The cooperation of the administrators' bargaining group was very helpful.

We continue to have good dialogue with our bargaining agreements. You may not think I am giving you a straight answer because it is difficult to give you a straight answer. I have not sat at the table yet and negotiated, but as I look at the history, looking at empowerment, it was our teachers' union who stepped up and collaborated with us in the relationship to empowerment. They looked at it in a different way and looked at in a different way of autonomy. I remain optimistic about the bargaining table on the tough concessions we are asking for and about things, we are talking about in redesigning our system. These will also take cooperation from our bargaining groups just like the school improvement grant I just illustrated. I remain optimistic that they get it. We are all in this together. We will be successful in doing this, but it will be difficult because we are asking them to make some difficult choices.

SENATOR HALSETH:

Thank you, Superintendent Jones for being here today. Will you provide me with a line-item list of what exactly Clark County School District is spending money on? How much money for each item? And by the end of next week.

MR. JONES:

Thank you, Senator. I can provide you with our budget. Our budget would have a line-item list. That is already public. We can send that to you. There is an explanation that goes into different line items that may take some work on our part. I appreciate the question, because, since being appointed superintendent, one of the things we want to be is transparent on a lot of fronts. Budget is one of those fronts. We are working with our technology staff to take what you are requesting, though, perhaps not at the detail you are requesting, to have that posted so that the public can clearly see what resources are being spent and what they are being spent on. I want to take that a step further to have a category that says what has been the return on the investment. To show what kind of a result we have gotten for that expenditure. It will take a while to do that, but that is part of the goal.

MR. WEILER:

We submitted, on April 15, our tentative budget to the Department of Taxation, which includes a fair amount of detail. It is the prescribed detail we are required to submit. We will do an additional submission after we do the final budget in May. We have to submit that by June 8. I do not know how that might make its way to this body, or in what form you might see that. That is a prescribed method we already do. That might be adequate. I do not know beyond that, what detail you might want to see.

SENATOR HORSFORD:

If you could provide that link to our staff, we can make it available to all the members.

SENATOR HALSETH:

That is a great point. But I would like to state it is important for us to look at the budgets. We are having a Committee of the Whole and want to discuss the budgets. I think it is very important to look at each line item especially since the districts have chosen to spend over \$800,000 on iPads instead of employing teachers. I would like to see that in your budget line item, as well. Since you say you have it ready, I think it would be okay to ask for by the end of next week.

SENATOR LESLIE:

Thank you, Mr. Chair. Superintendent, I would also like to thank you for your leadership.

There is \$20 million in the Executive Budget for teacher pay for performance. I was here in 2007 when we appropriated \$10 million for the same purpose. That was swept due to budget reductions. Since I do not sit on the budget subcommittee for education, I have not heard the discussion. Have the superintendents talked about whether this \$20 million should be spent in this way. Given all the other cuts, do you have a preference for us to reallocate that money?

MR. JONES:

We have had some discussions as a whole and Dr. Morrison, the Superintendent of Washoe County Schools, and I continue to discuss this. We know that between the two districts we

represent about 90 percent of the students in the State. We are supportive. We understand we have difficult decisions to make. We are supportive of the Governor's signal that we want to invest in determining how we reward some of our brightest that are also beating the odds to get results. It is a hard decision to make because there are so many things on the table and jobs are being lost. Those are tough decisions. Even making tough decisions, you have to keep your eye on the prize. We have been supportive of the Governor's initiative to say, "Let us figure out how we invest," and this may be a good way to either do a pilot project or take a look. We currently have empowerment schools. There are 30 of them in the Clark County School District that are under a pay for performance model. We are concerned about how we sustain that. With all things being considered, we like the signal the Governor is sending.

SENATOR LESLIE:

That is the tough decision that is facing us. Save jobs. Do teacher pay for performance. I would be interested in your ongoing opinions as we get close to making a decision.

I appreciate your comments that have been supportive of teachers. Many teachers are feeling attacked. It is refreshing to hear someone support the staff and talk about the sacrifices they have made already, along with the pay reductions, benefits reductions, merit pay being taken away, as you list them. Those teachers who have studied for their graduate degrees are not going to receive what they thought their contract called for. There is the reduction in textbooks, instructional supplies, and adding three more students to their class. It is grim to be a teacher these days.

Looking at the education budget, the superintendents know better than anyone does what the impact will be. Looking forward to the next two years and to the future of K-12 education in our State, what would your recommendation be to us? Is there any hope within the confines of the budget where you would realign something? Is there any advice you can give us on what you would do, or is it simply that there is not enough revenue in the K-12 education budget to make certain that what all of us want is for every child to have a quality education, every teacher to feel safe in their classroom and to have the resources they need to make certain that every child can succeed? I would welcome any closing thoughts you would have.

MR. JONES:

I have been consistent with my trustees as well as with the Clark County community. I want to be consistent with you. The budget is a tremendous challenge. With that challenge, we have to stay focused on getting better results. If I did not believe that, I would be recommending to the trustees to get a new superintendent. Regardless of the challenge, we have to keep our eye on the prize. We will be graduating thousands of students. We know that our drop out rate is too high. We know that a number of those students are not prepared for a post-secondary or even the workforce at the level you and I want for our children. The task is great. I remain optimistic.

I have asked for a detailed audit. I have asked for the private sector to support it. I do not want to take any dollars out of the general fund budget. I just received word that I think it will be supported. It is not just an audit, it is an analysis that looks at what we are spending our dollars on. Clark County is no different than other large systems. We do a lot; however, we never go back to ask if what we do has the intended result we wanted. You have to look past just an audit. You have to ask what the return is on the investment. I do not know if I have too much money or if I do not have enough money. When we can look at the data, when I can say, "what have we been spending money on and what could I reallocate to spend those resources on," then I will know if I have enough or if there is too much. Until I know, holding the line makes a lot of sense for the school district. That is a difficult thing to ask, because we are in a crisis. We have to have time to focus on what matters most to get the best results. We have to implement the growth model system to look at a new accountability system. Start with me first. I have to be accountable first. If I cannot get it turned around to get better results in the next three to five years, the trustees will not have to ask me for my resignation, I will go to them. I have to create that accountability system across the system. There are some things that we are going to do that will send clear, transparent signals to the community. If I am cut too deep, it will be hard for me to build those systems and to train the staff in the way I need to train them, to get the results we want. It is one of the reasons, without knowing, we have said holding the line makes sense for the school districts.

SENATOR HORSFORD:

You referenced, "holding the line." I want to clarify what that means. Under the Governor's budget, the Clark County School District would be impacted by \$400 million. Are you saying, "holding the line" at the reduced level of spending as proposed by the Governor at a \$400 million reduction, or are you saying "holding the line" at some restored level of funding beyond the Governor's recommendation, recognizing there will be no increased funding and that there will be some level of reduced spending on K-12 education for the next two years?

MR. JONES:

I am talking about the latter. Clark County was already looking at \$186 million deficit. We would look to try to hold the line that would not have the potential \$400 million that is being proposed.

SENATOR HORSFORD:

I think this is a fortunate time for the State of Nevada and the students, parents, community and business leaders in our respective districts. We have two of the top rated superintendents leading our two largest school districts during a period where we desperately need their expertise. I do not know everything about Dwight Jones and I do not know everything about Heath Morrison, but what I have heard from them both is a commitment to do things differently, to put students first in every decision and to tackle the real and perceived inefficiencies at the administrative and central level. For far too long, in Clark County, we had a central school district where too many resources went in and not enough went out. Now, that when every dollar is being looked at and when every dollar should be accounted for, there is a commitment to put those resources where they need to matter most, in the classroom. I hope that as we make our decisions, that we will empower you and Mr. Morrison and the other districts to have the resources and the tools to provide that quality education that we want for our own children, for their peers and for the State as a whole. I hold you to your word that you will take the accountability of the funds that the State provides seriously and that you will do everything to ensure that every dollar is spent where it matters most. With that level of commitment from you and the other superintendents, then we can find that consensus to restore funding at an appropriate level.

Next, we will hear from the Washoe County School District.

CRAIG HULSE (Washoe County School District):

It is a pleasure to be in front of this body, again. A year ago during the Special Session, I had the opportunity to discuss the same topic, budget cuts at 6.9 percent. I would like to thank you for hearing this budget in the open. We have had many of these discussions in various subcommittees. I appreciate the Governor and his education reform package elevating the culture of education in Nevada. We have had good dialogue in the education committees on his bills. I appreciate, as a taxpayer, a no new taxes budget as promised.

Representing the Washoe County School District, we are here to respectfully not agree and to not support that budget. To the Washoe County School District, this budget would be a \$75 million cut when you count State, local and federal funds. Each year, for the biennium, after already cutting \$73 million over the four years, we cut \$37 million out of our budget. That was partially from the 6.9 percent cut made in the last Special Session.

In the Washoe County School District, we are holding our people accountable. Our community is holding us accountable. We have developed an aggressive strategic plan with our associations, with our community. Many of you have received an outline of our goals, the accountability measures, and the performance you will have from the Washoe County School District. When the strategic plan was put together, it was not based on additional revenue. It was not an unrealistic strategic plan. It was based on not cutting revenue as was discussed by Dr. Jones. We viewed it as a best-case scenario from our current budget that we have now. This past year, we increased test results. We improved graduation rates by 7 percent. We recognize the need to improve and to get better. It is difficult for us to keep coming back to the Legislature where we are held accountable for increased results at 7 percent last year, and then we are cut an additional \$37 million. We will continue to do the best with what we have. We will continue to

strive to meet the strategic plan and to get every child to graduation, which is the goal for our strategic plan.

As the Chair mentioned, Dr. Jones and Dr. Morrison are two outstanding reform-minded superintendents in the State who represent 90 percent of our students. They have the State going in the right direction. They have the infrastructure in place to make education and student achievement better in Nevada. Not supporting this budget is the Washoe County School District's opportunity to show that this could possibly hinder and not improve student achievement regardless of the efforts made by both superintendents.

I will now address what has been proposed by the Governor. There is a 5 percent pay cut for all of our employees. That equals \$17 million. There is a 25 percent PERS contribution equaling \$14 million. Both items would need to be negotiated. The two amounts equal \$31 million. That leaves us \$44 million short. Under this budget proposal, jobs will be lost in the Washoe County School District.

There are a few misconceptions about budgets I would like to address. There has been discussion about top-heavy administration. It has been stated that we can always cut more administrators, we can cut administrators' pay, and that we have too many administrators. The National Center for Education Statistics (NCES) says the national average of students to administrators is 221 to 1. In the Washoe County School District, it is 381 to 1. As we lag behind many other states in funding and other categories, we are also behind in the number of administrators in the school district as well. I also hear, constantly, about data. Everyone wants to put out data. When you work in education, you can find almost any data to represent any view you have. There are numerous studies available on anything you can imagine. I hear a lot about how in 1959 we were spending \$3,100 per student adjusted for inflation. Now we spend over \$8,000, adjusted for inflation, and we do not have any test results or anything to prove that spending matters. The national average in 1959 was \$2,800. We were spending over the national average then. As the world of education has evolved over the past 40 to 50 years, and the challenges continue to become greater, we have fallen behind the rest of the country in per pupil funding. I hear a lot about how we keep increasing funding but graduation rates are going down. I see much data thrown at the school districts. As every one knows, during the last six years in Washoe County, costs have gone up to educate a child. Poverty, mobility, English as a second language adds to the costs to educate the children.

These past six years have seen changes. In the last six years, our free and reduced lunch rate has spiked by 33 percent in the Washoe County School District. While this body feels a lot of the economic stress from reduced tax revenues, we see the economic stress in our students every single day. Thirty-three percent is a large number. Six years is not a long time, but it is the challenge we, in the Washoe County School District, face today. In addition, in the past six years, our English as a second language rate has risen 30 percent. As the challenges get larger, and our budgets continue to be cut, these cuts are real, and these students are real with real challenges.

Everyone asks if we spend too much on education. They ask if we do, or if we don't spend enough on education. I ask you, do you ever ask if you spend too much on your 401(k), or if you do not spend enough on your 401(k)? It is an investment. You do not spend money in investments. You invest money. The more you invest the better results you have later on.

The State budget is 40 percent public K-12 education. It is one of the few dollars you can spend for taxpayers that will show an investment and a payoff over the long term.

I understand, and the Washoe County School District understands, the challenges before this body. As we discuss various reforms and various budgets before the Legislature, including taxes, the one thing we can promise from the Washoe County School District, the Board of Trustees and Superintendent Morrison is that with our strategic plan, every dollar invested in the Washoe County School District will be an investment and will be worth the taxpayers' money.

SENATOR SETTELMAYER:

Thank you, Mr. Chair. Last night Dr. Morrison stated that Washoe County has been working hard with its collective bargaining unit. We had testimony from Clark County earlier today stating what could happen as far as layoffs. Mr. Morrison stated that he has had a good working relationship with those collective bargaining units. In the last year, the State workers took a

4.6 percent pay cut. What percent cut or increase did the individuals in Washoe County receive last year? Was it a cut or increase? At what percent?

GARY KRAEMER (CPA, Chief Financial Officer, Washoe County School District):

A step increase of 2.7 percent was forgone. We did furlough days of between 2, 3, and 5 days, and 10 days for the Superintendent. It was somewhere between 2 and 4 percent.

SENATOR MANENDO:

Thank you, Mr. Chair. I listened to the testimony last night. I heard a story about one of the classrooms in Sun Valley that when it rains, it leaks into the classroom to the point that the school needs to be leveled and rebuilt. Could you elaborate on that? How would this budget affect something in a situation like that?

MR. HULSE:

I believe that was during the discussion of the debt reserve sweep proposed in this budget. The Governor's proposal sweeps \$54 million from the Washoe County School District. I do not know what the amount was from Clark County. The majority of the sweep comes from the two largest counties. That proposal removes about \$75 million in bonding capacity that we could bond for certain projects to address the problems like Sun Valley Elementary if it needs to be rebuilt. There is a huge community effort that goes into a lot of public meetings to determine the needs for that. That is something that would not be able to happen under this proposal. We have funds available from construction savings. The Governor's proposal leaves \$2 million of governmental service tax for emergencies if the roof is leaking or for something like that. At a certain point, it is not economical or fiscally responsible to keep patching up schools that need to be torn down and rebuilt. Under this proposal, we would have to continue to do more with less or eventually close that school if it gets to that point.

SENATOR HORSFORD:

We will now hear from Dr. Roberts on behalf of the Association of Superintendents.

DR. WILLIAM E. ROBERTS (Superintendent, Nye County School District; President, Nevada Association of School Superintendents):

I admire and respect your dedication and devotion to the citizens of Nye County and the rest of Nevada. Senator McGinness, thank you to your service to our students as well.

I have the opportunity of being the President of the Nevada Association of School Superintendents as well as the Superintendent of Nye County. I would like to address some of the issues facing the rural districts in this State.

In a recent Assembly Ways and Means and Senate Finance Joint Subcommittee on K-12 education, the superintendents of Nevada's 17 school districts were asked to provide additional information related to proposed budget cuts. This document we provided is a response to that inquiry.

Superintendents were asked to respond to the following questions, based on the dollars that would be available if the Governor's proposed budget were to be passed by the Legislature. The questions were as follows:

Would school districts' class sizes increase at the elementary, middle and high school levels? If so, what will the class sizes be in the future?

Will staff be reduced? What are the staffing levels before and after reductions if reductions are necessary?

If the Government Service Tax is taken from your district, what will be the dollar impact to your district?

If the Governor's recommended budget is enacted and the budget cuts take place, what cuts will districts make to balance their budgets?

A survey was conducted with all 17 school districts in an attempt to answer the above questions. Please note that the districts were asked to use the following assumptions when answering these questions:

No concessions are given by the bargaining units.

Some discussions regarding the issues had been held with the Board of Trustees.

The Government Service Tax estimates are from the projected revenue for each district for fiscal year 2011-2012 and use the numbers provided by the Administrative Services Division on March 15th, 2011. These numbers include both the school operating and bond portions of the GST.

Please note that the Clark County School District has also provided information about the amount of money their district will lose if the I.P.1 money scheduled to go to the district in FY 2011 is diverted to the State General Fund.

I have included a survey taken of the 17 school districts in March 2011, which reflects the budget reductions school districts have taken since 2008, coupled with the reductions that are currently being proposed.

There are many nuances to the K-12 budgeting and it is a complicated process. Therefore, no survey will be perfect as each district may account for various areas significantly differently. Nevertheless, we hope these surveys will give you a broad picture of the issues facing Nevada's school districts and more importantly to us in the 15 rural school districts. The larger districts have already commented. Thank you for your continued work on our behalf.

The survey (Exhibit D) is available in the NELIS system.

DR. CAROLINE ROSS (Churchill County Superintendent of Schools):

Thank you for the work you do on behalf of our students and our teachers and for giving us the opportunity to participate in this conversation, today, because I am preparing for a Board meeting tonight in Churchill County. Much of the discussions you have had will be continuing. I have been asked to share with you what is available on your computers and that I might have the opportunity to give you some guidance on using this document. This document (Exhibit E) includes each of our enrollments. It includes the class size as well as the size after cuts.

In Churchill County, we, like many of the other districts, are having conversations and are making outreach efforts. Some of you came to Churchill County to work with us and to learn information about our community and our current status. We are in our fifth year of budget cuts in Churchill County. I would like to discuss the *Planned Program Cuts* item in the chart we have given you. There are some common themes and I would like to discuss how they specifically relate to Churchill County. These are proposed in many cases throughout the State. School boards received information that they could work with their budgets on March 28. In less than a month, we have had some information that could give us some guidance as to how to have these conversations with our school boards.

Should the budget proposals materialize, there is a theme of no textbook adoption in many of the school districts. If we have not cut art, music, computers and P.E. those will be likely to go, as well as implementing pay-to-play. Some of us have already implemented that and to reduce the interventions, we have worked to prevent some of the issues that we currently have with student performance.

In Churchill County, we have the opportunity to serve the Naval Air Station in Fallon, which trains world-class Top Gun pilots. We also serve our Fallon Paiute-Shoshone Reservation students. We have a great deal of diversity and opportunities to serve and to outreach to these students. We understand our mission. This is my eighth year in this school district. For eight years, we have been focusing on student achievement. If you look at our district, we have been improving student achievement over time, even with our budget reductions. We take seriously your direction to become more efficient and more effective. We believe we have evidence that is occurring in the performance of our students.

We are also taking the new direction from the federal government Common Core seriously. Our Board understands the implications for the delivery of students throughout Nevada. Common Core is a major culture change at the same time we are undergoing culture changes here in our State. It will demand that we provide an additional rigor to all students in order to get them to perform proficiently, not keep doing what we have been doing. We have been reforming in our school district. In Churchill County, we do have collaboration time that we use specifically for professional development amongst our teachers. We believe we may have results and a model that has been adopted by others and has been working effectively. We get feedback from our teachers frequently and regularly on many facets of that collaboration. Our school board is continuously looking for best thinking. Not just thinking, but best thinking. How do we

reach out with these various communities that we serve and bring out the very best. In the eight years I have been there, that has been the challenge. As you know in the work you do for us, everything else seems to float to the top and get attention.

We have been involved in town hall meetings, meetings with our staff, meetings with our businesses, our community, our master plan task force and making those efforts.

One thing that has been clear to us, and I see it at the State level, is that it is difficult to remain tough on the issue. In times like this, we want to be tough on people and most of the people in this room are probably much like the people I serve, recognizing that people are probably doing about the best they can with the information they have. Being soft on these people that are in the classrooms, in the hallways, in our buses, and by saying being soft I mean they may be doing the best they can, maybe they need more training, they may need more time, but like you, they do not have all the information. Given the opportunities, they step up to the plate. I can personally attest to that for Churchill County.

We are a county who is looking at a new charter school coming in and taking 180 of our students. We are decreasing about 200 students a year. This prompts difficult decisions for our school board. They are considering many options, including closing our schools and the items I have discussed contained in the information given to you.

We have a graduation rate of 86 percent. We hope that through this, you all keep these things in mind as you go forward to make the best decisions for our students and our staff.

DR. ROBERTS:

Nye County School District is the largest single school district in the United States. It covers 18,000 square miles, 7 towns, and about 6,000 students. We have 18 schools. Our ratio of administrators to students is 1:370. That is one of the highest in the nation.

The economic impact of schools and school districts in Nevada. Clark County School District is the single largest public employer in the State and the largest employer in Clark County, providing over 35,000 jobs. Washoe County School District is the largest employer in Washoe County. There are over 8,000 employees. Humboldt, Lyon, Lincoln and Nye County School Districts are the largest employers in their counties. Carson City, Douglas, Churchill, Eureka, Elko, Esmeralda, Mineral, Pershing and White Pine School Districts are the second or third largest in their counties. Lyon County and Nye County are two very stressed counties in Nevada and nationally ranked. The problems we have when we lay off individuals in rural areas and in the small communities, is that there are not other jobs these people can obtain. As a result, they leave. They leave the State, they leave their houses, and they are no longer able to pay their mortgages. Consequently, they do not pay sales tax and there are other economic factors mentioned earlier, 2.5 jobs for every one we lose. Take that into consideration the teachers we lose now, and those who are leaving. I had a science teacher who taught the highest level of science we had in Pahrump. Over the Christmas holiday, he left for another job, giving ten days notice. He took his wife with him who was a special education teacher from Clark County. They gave the reason that they saw what was happening. They have been a part of the last few RIFs and had enough. We lost two of our best teachers.

Nye County School District has, in preparation for this tsunami coming upon us, closed a school in Pahrump and Mt. Charleston Elementary. It is a long process to do. It is emotional. People are attached to their institutions particularly when their brothers and sisters, mothers and fathers have attended those schools. Our elected board made tough decisions based on dollars and cents. You can save money on power, water, sewer and the staff associated with that school, and then distribute those students across the entire valley to schools who have empty classrooms as a result of 234 fewer students this year compared to last year.

We have tough decisions already. We did not invest in textbook adoption. We are replacing those textbooks we need only to maintain the current level of instruction. Our graduation rate is about 79 percent. Our dropout rate is 0.8 percent. This is an improvement from years ago. We try to do the best we can with every dollar we have. We will continue to do so.

The school in Tonopah was closed last year for that reason. Even with all of that, if the Governor's budget was implemented we would lose 107 employees in the Nye County School District. That is about 10 percent of our total population. We have 2 district administrators, 2 school principals, 65 teachers and 40 support staff. For those of you who understand rural

communities, when you have a school in Gabbs with a K-12 enrollment of 60 students, you cannot put 40 in a classroom. You have to have highly qualified teachers in those subject areas to ensure those students receive an education. In Duckwater, we have one teacher in a K-8 school for 16 students. In Amargosa, there are 190 students in the K-8 school. In those small schools, you have to do what you have to do to ensure you have the ratio to provide an education. In Pahrump, we might have 30-40 students in a classroom. It is difficult to try to fit them all in there. There is a fire marshal code for the number of square feet per student, let alone the effect on education by increasing the number of students per class. I wish you would consider this.

I would like to address the bond issues of taking the debt service account away from us. We have two major construction projects under way in Pahrump. We have an elementary school, which is a replacement for a trailer park school. It should be open in June. Our high school is going through a \$28 million renovation. The school was built for 650 students. We have 1,400 in that school. We will be housing those students in buildings that are more economically suited, efficient, safe and with the latest technology and adding those CTE skills necessary for students.

A big concern is in Tonopah where we have been working a year with the citizens who voted in 2007 for a bond to have a replacement school. That will house a K-8 student load for the entire community. It is an \$11 million to \$12 million project. We have spent several hundred thousand dollars on engineers and architects to design the school. It is getting ready to go out for bid. If that bond money is taken, we will probably not be able to do that. If this passes, we will not be able to build the school because we will not be able to make our mortgage payments. Two of our communities are already capped at the amount of money that they can be taxed. If a school district does not have the money to pay its mortgage, other governments will have to make up the difference. Those taxes will be modified in those communities. The school district, by law, could be required to pay back that money from the General Fund to those communities to make up the tax loss.

SENATOR HORSFORD:

I appreciate the spreadsheet you prepared for us. Where is the Lund School that is proposed for closure?

DR. ROBERTS:

The Lund School is in White Pine County.

SENATOR HORSFORD:

Why is that school being proposed to be closed?

DR. ROBERTS:

The superintendent from that school will have to address that specific issue. I understand it is a cost savings. We have looked at how much it would save to close the school in Amargosa and bus the students an hour to Beatty. It is strictly an economic decision. If you have the facility. You can reduce the staff at the other facility and save several hundred thousand dollars.

SENATOR HORSFORD:

I have been getting e-mails from the residents in that community who oppose sending their child on a bus an hour each way to school just to hit a budget target. It does not seem to make much sense from a quality of life standpoint.

DR. ROBERTS:

I concur with you in that. If we do not have the budget reduction, then we will not be transporting our students. If the Governor's budget is enacted, if that is what you have to do to provide the education, then that is what they have to do.

SENATOR HORSFORD:

In White Pine, do they have 1,400 students, but only 100 certified teachers? When we were in Fallon we heard from them that a reduction of their work force of 10 percent to 15 percent means 10 to 15 teachers of the 104. Does that mean one math teacher, one science teacher, one person with a credential to do that class, if so, if that position is eliminated, how will those

students be taught the subject matters they are required to meet the standards of the State to graduate?

DR. ROBERTS:

I do not have the specifics for their break down, but the *Nevada Revised Statutes* (NRS) require that you have highly qualified teachers in the schools to provide the instruction necessary for the students to graduate from school. My assumption would be that they would load up the classes available for students to receive the instructions required. Those classes that are not required would be eliminated.

SENATOR HORSFORD:

According to the information provided, in the Pershing County District, they have no ending funding balance?

DR. ROBERTS:

If that is what the superintendent stated, then that is what I am told.

SENATOR HORSFORD:

Eureka and Lander Counties are the only two counties that receive the net proceeds or are there others?

DR. ROBERTS:

There are several other counties that receive net proceeds of mines.

SENATOR HORSFORD:

This spreadsheet you provided for us, only shows Eureka and Lander that do not receive DSA allocations based on their local support. Is that true?

DR. ROBERTS:

That is correct.

SENATOR HORSFORD:

Eureka has 239 students with 32 certified teachers. That county has a huge reserve based on their increase of net proceeds of minerals. I do not understand how certain counties like Clark County and Washoe County are being singled out. There is \$220 million coming from Clark County out of their reserve, \$54 million out of Washoe County, then a rural county with only 239 students has a reserve and the Governor is not proposing to sweep that. I do not understand that. I will ask the administration.

SENATOR MCGINNESS:

Thank you, Mr. Chair. Dr. Roberts, would you explain what you said about the collective bargaining units. Is there any indication as to what the 15 rural counties might do to try to maintain jobs?

DR. ROBERTS:

We have met with each of our three collective bargaining units, administrators', classified and certified. We have asked that they take the concessions that have been proposed in the Governor's budget of a 5 percent salary reduction, 25 percent reduction in PERS, a freeze on the longevity step increase and a few other items. We have not had any response from the units to date that I would characterize as encouraging. At the last negotiations, there were a number of furlough days by the school administrators and they paid ten percent of their health insurance. At the district level, non-union staff took four-day furloughs. I took a ten-day furlough. The classified and certified, took no reductions.

SENATOR MCGINNESS:

You talked about if the Governor's budget is approved you would not be able to build a school. The State does not provide money for capital construction. It is just used for operating. How would that affect your ability to build a school?

DR. ROBERTS:

The capital funds for us comes from our government support tax for our daily maintenance and operations of the district as well as buying a school bus or two. The Bond Reserve Fund bond money is what we use to build our construction projects. In 2007, the voters of Nye County approved a bond project that at the time had an estimated value of somewhere around \$100 million to \$120 million. That was projected based on many things that have changed. You only sell the bonds you need to build the projects you have at the time and your ability to repay that. If our bond money to pay the debt is taken, our bond rating would drop. Currently, we have a rating of AA. The cost to borrow money would be greater if we had the ability to repay it. My concern is for the voters in Nye County, who are now paying the property tax to have these things constructed, and we may not be able to do it.

The school in Tonopah is very old and has a significant amount of work for Americans with Disabilities Act (ADA) compliance that needs to be accomplished. Rather than throw good money into a very old school, it was the decision of the community and the Board of Trustees to replace that school with something students would be proud of and will last for decades.

ANDREW CLINGER (Director, Department of Administration, Chief, Budget Division):

I will present an overview of how we got to this point. Nevada has been hit harder than any other state by the Great Recession. You see that in the numbers you are aware of. We lead the country in foreclosure, in unemployment, in wage declines. All of those indicators have had a tremendous impact on the revenues that we collect to fund the State budget. The Economic Forum forecast a \$5.3 billion of funds available to fund the Governor's Executive Budget. Going through the budget process and putting that Executive Budget together, we tried to take a balanced approach in putting together the Governor's Executive Budget. The Executive Budget does include an additional, almost \$1 billion in revenue added to that \$5.3 billion. That includes the debt reserve sweeps, as well as property tax. It is not just cuts that we have proposed in the Governor's Executive Budget. There are other things that we have put in to help balance this budget. Some of the items we have had to deal with in putting this budget together and the reason we have had to make these provisions in the budget is that we have had to deal with the loss of, not only State revenue, we have also had to deal with the loss of federal funding, case-load growth and loss of local funds to the school districts that we have to make up. In the loss of federal funding, the ARRA funds, the impact from that on the upcoming budget was about \$450 million. A good portion of that funding went to higher education in the last legislative session. Part of that went to the Department of Corrections. We also had increased matching funds for our Medicaid program, all of which are gone now. In addition to that, we have had caseload growth that we have had to manage in the Department of Health and Human Services. We have had to put an additional \$270 million in the Governor's budget to deal with those caseload increases. In addition to that, the loss of the LSST funding that goes directly to the school districts as well as the loss of property tax revenue to the school districts had to be made up as well. That was an additional \$440 million. In addition to that, we are forecasting almost \$1 billion will have to be paid back to the federal government for unemployment insurance that we are currently borrowing to provide insurance coverage to those who are unemployed. The cost of that to the State, just in the next two years for the interest, is \$66.3 million. That is \$1.2 billion of additional requirements put on the State as we put this budget together. The budget we proposed takes a fair and balanced approach not only on the expenditure side, but also on the revenue side.

HEIDI GANSERT (Chief of Staff, Governor Sandoval):

This budget was difficult. I appreciate Andrew's work and the effort that was put into really going through it line by line to make certain we could balance this. Our Governor recognizes it is very important to allow this economy to recover. We recently had the good news that unemployment has dropped a little. It is still very high, but it has dropped. We have some job growth for the first time in 37 months. This is the largest month-to-month job growth since 2005.

I appreciated the comments made by Superintendent Jones. This administration has been focused on reform. It is apparent from his testimony that even though there are budget cuts, that he is focused on reforms as is Washoe County Superintendent Heath Morrison, who was able to

testify last night. We agree on many things. We agree on the accountability, on data analysis, we agree on looking at student growth, on literacy as being important and ending social promotion. We agree that part of the formula has to be the success of the students.

I would like to address the document provided by staff, *The Senate Committee of the Whole Work Session on Governor's Budget Proposal for K-12 Education*. The document discusses enrollment, growth and the basic support. Even though we have cuts to this budget, if you were to look FY 2011 versus FY 2007, the growth in enrollment versus the growth in basic support, you would find that basic support outpaced enrollment by five times. If you look at the reductions, the proposed numbers for FY 2012 versus FY 2007, our spending, still with these cuts, is outpacing the growth of enrollment. Those may be surprising numbers, but take the numbers and back them out. Even with the cuts we are doing fairly well. We looked at ranking per pupil revenues. We looked at the NCES for the most recent data we could get. There have been questions about different types of funding, basic support versus total support versus total support with capital. The numbers we have actually have Nevada shown as twenty-fourth of fifty-one as far as funding.

It seems there has been some confusion about how we are proposing to adjust salaries for all school district employees. These would be licensed personnel and other personnel. Basically, we are trying to make them closer to equal to a State employee. If you were to take a teacher with an average salary of \$54,000 and compare that teacher to a Social Worker II and they are affected by PERS and by the pay cut, they would have the 5 percent salary cut. They do not contribute to their PERS. Their net would be whatever their furloughs may be, but their top number would be \$54,000 and their net would be close to \$54,000 depending upon whether they took a 1 percent or 2 percent pay cut or if there was a furlough day. If you look at the current State Social Worker II, with the same salary level, they would have a 5 percent cut equal to about \$2,699 and they would be contributing half to their retirement contribution. The rates are going to go up to about 23 percent. There is an additional 11 percent off their pay roll that would be deducted. Their net pay would be substantially less.

Given that PERS has been paid for completely by the taxpayers this is an incremental portion. All State employees pay 50 percent. The Governor's proposal is that they pay 25 percent. We recognize that is something new to them. It has been paid on their behalf in the past. The average teacher works 9, 10, or 11 months. Earlier when the furloughs were discussed, it depended on how many months a year the teacher was working versus the Social Worker II at 12 months.

We looked at how our teacher pay ranks on a national level. We looked at an NEA study and found that our teachers were in the middle. We were 23rd out of 51 states. We cannot tell from the data if that includes the PERS contribution being paid on their behalf or not. It may be higher than that. We are not certain. We recognize it is important to pay teachers well. We think the State has done a good job of doing that.

In the Governor's budget, the salary adjustments comprise 70 percent of the total cuts to education. When you look at the total dollars being cut, 70 percent is an effort to make them look more similar to other State employees. If they were to pay the full 50 percent of their PERS, it would be closer to 90 percent of the adjustment. We recognize that all these numbers have to be collectively bargained, but we are trying to pay instructional and non-instructional personnel more like State employees.

We have had many questions on debt reserves. We have asked if we are sweeping them or not sweeping them. School districts who issue bonds have two accounts. They have a capital account where they budget their construction and they have a reserve account. The reserve account is required to have 12 months of interest or 10 percent of the balance of the outstanding bonds. We are not using any money from the Capital Construction Fund. In the past, we have. That was discussed earlier today. In 2009, there was \$10 million and \$25 million in the Twenty-sixth Special Session taken out of the construction account. The reserve account is money where there is a variety of income streams that go into it. It is fenced off. The money has never been used, to our knowledge. We do not know of any school district that has ever tapped it. It has been used for construction. It has not been used for ongoing operational expenses. We propose that we drop the required reserves down and we allow school districts to use the money for operational needs. We think that is an advantage for them. It stays in the school district of

origin. You will not see Clark County money going to Nye County or Lincoln County or any other county in the State. It stays in the school district of origin. We have it set up to where it would be triggered back. If the Economic Forum comes back saying local LSST, a piece of the sales tax, at a certain level comes in greater than projected, it is our intent to replace that money. This is a bridge. We are facing extremely difficult economic times. We believe it is important to mitigate or reduce the cuts as much as possible because we want to keep the teachers in the classrooms. We want to keep the staff within the school districts. It stays in the school district of origin; the money would be triggered back. None of it is bond proceeds. Some of the confusion is that bonds are issued for construction and other projects. None of this money is bond proceeds. It is the revenue stream. If you were to take bond proceeds there would be tax implications to that. This is all money that is from a variety of revenue streams that we would be using. It would be money the school district would be allowed to use for their operational expenses and we would be triggering back.

Assembly Bill No. 183 was proposed in the Assembly doing the same thing, but stating that the money needed to be used for construction projects versus reducing the cuts to education. The Capital Construction Funds have been used before. We have not contemplated using that money. The balances in those accounts are significant. The Bond Reserve Accounts are not in every school district. They are only in school districts who have bonds. Those bonds are general obligation bonds. There are no covenants that require the bond reserve account to exist. That is a statutory requirement. It is not a covenant on the bonds.

There has been discussion about the block grants. We have taken many of the categorical expenditures and put them in the SABG program so that the school districts can decide where they want to spend the money. If full-day Kindergarten is more important than class size reduction, then they can move money around. Originally, we looked at implementation the first year. We listened to the superintendents of schools and we listened to the interested parties and recognized that they would not be prepared to that the first year. We moved it to the second year. With moving to the second year, the funding increased. There is about \$7 million less of a \$350 million to \$360 million pool for all of those categorical expenses we look at line item by line item.

MR. CLINGER:

I would like to discuss the use of bond reserves. Assembly Bill No. 561 was heard yesterday in Assembly Ways and Means. There are a lot of misconceptions about the bond reserves and what we are actually doing. We have gone through each district and done a cash flow analysis based on what their projected debt service payments are, what the projected revenue streams are. There are a few revenue streams to consider. In most school districts, it is only property tax receipts. What we have done to forecast the property tax receipts is that we have used the same forecast that we use for the State's debt service accounts. We have a core group that works on this. It is the Department of Taxation. It is the Treasurer's Office. It is the legislative staff. We get together and put together the property tax forecast that we use for the State's debt service, the 75-cent operating portion of the school districts. That is the same forecast that we are using to forecast the property tax that we believe will go into the bond debt reserves. We think that is a very conservative forecast. We use it for the State's debt services as well. The other sources of revenue that go into the Clark County School District is the room tax as well as the real property transfer tax and the governmental services tax. On those revenue streams, we are using the Economic Forum's growth numbers for 2012-2013 as the baseline. In the out years, we are using a conservative 2 percent growth rate. When you hear the school districts talk about how this is going to require a property tax increase, that is only true if this forecast we have put together, that we think is conservative, does not come to fruition. It is only if the receipts come in something less than what we are projecting. We think what we are projecting is a conservative forecast.

LUCAS FOLETTA (General Counsel, Governor Sandoval):

With the caveat that this institution has its own legal representation, I will give you the Governor's view on why he believes that his proposal relating to the use of the bond reserve accounts satisfies various concerns that have been raised in relation to the proposed use of that money. Three concerns have been raised. One is that the use of the money in the way the

Governor has proposed is inconsistent with the will of the people as expressed through the approval of ballot questions that resulted in the issuance of school bonds in certain counties. Another concern has been that the proposed use of this money somehow is inconsistent with the obligations of the districts as those are reflected in the covenants of the bonds, themselves, and a third concern has been raised as to whether the proposed use of this money would, somehow, negatively implicate the ability of the counties to engage in further bond issues later.

As to the first question whether or not the Governor's proposal respects the will of the people, the operative language is the bond question itself. I will read into the record the language from the ballot question in 1998 in Clark County, which authorized the issuance of school bonds. "Do you approve the issuance of general obligation school bonds so that the Clark County School District can finance new school construction and the expansion and improvement of existing schools." The question goes on to say, "District projects at the time the bonds are issued must indicate that issuance of the bonds will not result in an increase of the existing school bond property tax rate of \$0.55 per \$100 of assessed value."

It then states, "If approved this authorization will expire June 30, 2008."

A voter reviewing this question is confronted with essentially one question, whether they approve of the issuance of school bonds for a particular purpose. That purpose is the maintenance and construction of schools. The question relates to the use of the proceeds of the bonds themselves, which is the money that an investor in the district's debt gives the district. The question does not limit in any way the use of the revenue stream that repays those bonds which is, essentially, property tax. The question suggests, obviously, that at the time the bonds are issued the projections that the district has must indicate that it is unlikely that a property tax increase will arise over the course of the authorization to issue the bonds, but it does not limit the use of those funds. In this case, the Governor has proposed the use not of bond proceeds but of funds that are used to not even repay the bonds, but that sit in the bond reserve account. As Ms. Gansert described, there are three accounts. There is the Capital Projects Account which the bond proceeds go into. There is a Debt Service Account and within the Debt Service Account, there is a Reserve Account. Those two accounts, the Debt Service Account and the Reserve Account, are filled by property tax money. The Governor has proposed reducing the threshold for the Reserve Account and freeing up that money which is essentially tax revenue for use in operations.

SENATOR HORSFORD:

In the question, it said by law, the funds cannot be used to pay administrators, teachers, or other non-construction related costs. How do you reconcile that part of the question with the part that you read, which was only the first part?

MR. FOLETTA:

My view would be that the funds that it refers to are the proceeds of the bond issue itself, and not the tax revenue that is already coming in to pay the preexisting tax revenues already coming in to repay the bonds over time.

SENATOR HORSFORD:

We will have that discussion. If you make your argument, again, this is not a court, this may end up in court, if the districts or the parents in those districts choose to, but this is not a court. I am not looking for every legal argument. I am trying to understand the Governor's justification for the approach taken. Other people are going to have to review Assembly Bill No. 353, the bonds and this term that says, "The funds cannot be used to pay administrators, teachers or non-construction related costs." It is your contention that the funds provided for in this question are the bond funds not the funds from the revenue that are used to pay the bond back.

MR. FOLETTA:

That is right. The reason I make the argument, Mr. Chair, is that the basis for the Governor's position that the proposed use of this money is consistent with the will of the people. The will of the people as it relates to this question was that the bond proceeds themselves be used for a particular purpose. They did not render a judgment as to the use, generally, of the tax revenue.

SENATOR HORSFORD:

I worked on this bond question in 1998 as a volunteer. I can tell you what my intent and my understanding as a voter was who worked as a volunteer on this initiative. To somehow imply that the voters said the bond monies could not be used, but the revenues for the payment of the bonds can be used, I have a hard time understanding that logic.

MR. FOLETTA:

I will address the other two remaining points; first, the proposed use of the money is inconsistent with the terms of the covenants. It is my understanding with talking with Mr. Clinger that the bond covenants, themselves, do not restrict the use of the tax revenue that the Governor has proposed using for operational expenses. Finally, as it relates to the potential negative implication to the counties' tax ratings, insofar as to their ability to repay these bonds, is concerned. I would like to point out there are provisions in the State's laws that allow counties to apply to the treasurer for the use of permanent school fund dollars to guarantee outstanding debt obligations. There appears to be some mechanism within the law, now, to address at least some of the concerns that have been raised in that regard.

SENATOR HORSFORD:

Can I clarify to you, Mr. Clinger, or Ms. Gansert, is it the Governor's proposal that you will require the use of the RPTT room tax and GST proceeds to be able to implement the excess debt service proposal, at least as it applies to Clark County, which is unique in that they were the ones who had this voter approved bond initiative?

MR. CLINGER:

We do not transfer those funds specifically. I would say, we are projecting what those funds would be in order to determine the amount that is available to, in this case, Clark County, to determine the amount that is available to transfer to operating funds. We are not taking the room tax revenues or the real property transfer tax revenues directly, but that is part of what helps cover the debt reserves.

MS. GANSERT:

Something I learned I did not know when we started looking at the debt reserves, is that the property tax rate continues whether bonds are issued in taking all of that rate or not and that other municipalities have a rate of a half a cent. If that half cent is not used for school bonds, it can be used for other purposes. The revenue stream is a consistent stream that goes along and it can be used to pay off bonds, but it can be paid for other things or even pay-as-you-go projects.

Over the years, there has been a significant accumulation in the Bond Reserve Account and in the Capital Construction Fund. We did not speak to the Capital Construction Fund, but I believe the ending fund balance in FY 2010, after spending about \$540 million, is still over \$400 million for Clark County. I think there was testimony today in the debt reserve account for Clark County that there was \$475 million in there. We were contemplating allowing them to use about \$220 million of the \$475 million recognizing there is still another account and that that property tax stream and the other streams can be used for pay-as-you-go or to pay off bonds and so forth.

I would like to discuss the final page in the handout entitled *The Senate Committee of the Whole Work Session on Governor's Budget Proposal for K-12 Education*. That page is entitled, *Major Reduction Recommendations for K-12 Education Governor Recommends – Amended 2011-13 Biennium*. When we were in the Assembly last night, it was suggested that this list included cuts and that everything on here was a cut to the budget for education. Your document contains the list that talks about the merit increase suspension. There has been confusion about that, too. When you look at instructional personnel, they are paid for time in service as far as years and also for education. Originally, all instructional personnel were supposed to be frozen last session. What was added back, or restored, was the amount of money that was for advanced degrees. The line item merit increase suspension, just freezes everyone where they are now. If you were an instructional personnel and you were making \$60,000 a year on June 30, you would be making \$60,000 on July 1. If there was someone who finished a master's degree in December of the following year, they would be at that \$60,000 level. It is not a pay decrease, it

is freezing them like we have frozen all other State workers. That is an increase that would not be received versus a cut.

At the bottom *Major Reduction Recommendations for K-12 Education Governor Recommends – Amended 2011-13 Biennium*, speaks to I.P. 1 of the 75th Legislative Session and the continued redirection of the room tax money to General Fund. That is a continuation of what is happening during this current biennium. We do not view that as a cut. We view that as continued redirection. Whenever you redirect something or if you have more money in General Fund it reduces the cuts throughout the budget.

SENATOR HORSFORD:

What was the continuation?

MS. GANSERT:

On the I.P. 1 of the 75th Legislative Session money is going to the General Fund.

SENATOR HORSFORD:

That was provided for specifically in the language that the first two years the money would go to the General Fund. After that point, it would go to the State Supplemental School Account for the purpose of improving student achievement or incentives for teachers. You are arguing that it is a continuation. The first two years the voters and the proponents of the measure said that it should go to the General Fund; thereafter it should go to the State Supplemental School Account. How do you reconcile the language of I.P. 1 of the 75th Legislative Session that says after the first two years that the funding is supposed to go to education?

MS. GANSERT:

I.P.1 of the 75th Legislative Session was a statute. It was an Initiative Petition that went straight to the Legislature. It was done by statute. You can change the statute. There were a couple of advisory questions on the ballot that were around this question, but this question was never put to the voters. It was an Initiative Petition that went straight to the Legislature. We believe that the fiscal concerns that existed two years ago still exist. It looks as if we are starting into a recovery. We want to make certain we are doing everything we can to make certain that continues. We have proposed that that money will be directed to the General Fund as it is right now.

The last piece is the excess debt reserves. It is listed on here as if it is a cut. This is an effort for us to help mitigate the cuts to education. This administration wants to make certain every dollar possible is kept in the classroom. We are freeing this up to allow the school districts of origin to use the money, triggering it to go back. It is more a bridge than anything in an effort to mitigate cuts and to get as many dollars into the classroom as possible.

SENATOR HORSFORD:

Mr. Clinger, you started the discussion saying the Governor's budget is fair and balanced. I am glad to hear those things are starting to take hold. Out of the \$2.5 billion shortfall from the Economic Forum projections to the current levels of spending as requested by the agencies, the Governor's budget reduces spending of \$1.4 billion. Is that correct?

MR. CLINGER:

That is correct. It is \$1.4 billion or 7.95 percent.

SENATOR HORSFORD:

It proposes to shift, redirect or apply revenue from other sources including school district capital reserves toward the \$1.1 billion worth of revenue enhancements.

MR. CLINGER:

That is correct.

SENATOR HORSFORD:

The point is, late last year the Governor said he was going to present a budget based on the revenues provided for by the Economic Forum. At that level, it would have been \$5.3 billion.

Why did he not submit a budget with the funding at \$5.3 billion based on his pledge to submit a budget based on Economic Forum revenues?

MR. CLINGER:

It goes back to what Ms. Gansert discussed. When the new administration came in, we went through all of the agency budget requests and all of the requests they would need to implement in order to reach the targets we had initially set. After going through that process and evaluating all of the potential cuts, the administration realized that there were things we could not cut. We had to put other provisions into the budget to mitigate those.

SENATOR HORSFORD:

I appreciate the honest answer. I know that it is true. I know that the Governor would prefer to be in a different situation to where these cuts, as proposed, even with these revenue enhancements would not have to occur. But, I am still grappling with this question if he recognized that the cuts were too deep in that he as a Governor wanted to preserve those most vital parts, why is the approach with the \$1.1 billion short-term takings from other areas, particularly school districts, rather than just offering a long-term solution that addresses the problem?

MS. GANSERT:

I believe that this administration recognizes the difficult situation Nevada is in right now. We also recognize that we have needs and demands. Education is a priority for the Governor. That is why we looked at innovative ways of making certain there was more money available for schools and for different programs. The philosophy is that it is important to allow this economy to recover. He did not increase taxes. He did not look at streams outside of what was within the realm of what was available because he believes that we need to allow this economy to recover. That is what this budget does. We tried to create something that was reasonable, something that was balanced, something that made a strong effort to mitigate cuts and we were careful in how we put the budget together so there was money for health and human services, so that we could mitigate the cuts to education. It was about the economy starting to grow. During the State of the State, the only place where money was added was for economic development. He was been pleased to be able to work with you and with the Majority Leader and the Minority Leaders on a new economic development program, a new board, a new vision, a new way of approaching it.

SENATOR HORSFORD:

I respect that. I respect the Governor's constraints of trying to offer a budget proposal that did not offer new revenues. However, to the point of trying to live within our means, the \$1.1 billion in revenue enhancements creates a budget hole for the 2013 Legislature at the very beginning. Is the trigger for the LSST in a bill? I have not seen that. That has to be repaid. If we are going to dedicate future increases in LSST that means that is money that would otherwise be used to help offset local support, thereby reducing the State's burden. If you are going to pay that back to the districts by sweeping these dollars, then you are creating a different hole in the LSST support. We have the prepayment of the net proceeds of minerals. That is another hole a future Legislature is going to have to address. I do not know how fiscal conservatives can really defend some of these actions. In being fiscally prudent, those three examples I just pointed out, create holes, they do not solve problems for this Legislature or the next one. How do you respond?

MR. CLINGER:

To address the point on the LSST and where that will end up, we sent some language to your legal counsel. We anticipate that will end up in the DSA whenever that comes out. It is not in the current bill, but the plan is to put that into the DSA bill. The Economic Forum does a forecast on the State's 2 percent sales tax collections. We use that forecast for the basis of developing a forecast for the LSST. That LSST projection will go into the calculations for basic support. What we are talking about on the payback is not using that base-line LSST. We are stating if revenues come in higher than what is projected in the DSA that those excess revenues be used to replenish the debt service reserve account.

SENATOR HORSFORD:

If they do not come in higher than projected beyond what would already go to the local portion of the DSA?

MR. CLINGER:

If the revenue does not come in higher than forecast, then it would not replenish. We are proposing in the language to be included in the DSA is that that language stay in there until those funds are replenished. If it is not in the next two years, it could take four years. It depends on how the revenue comes in compared to the forecast.

SENATOR HORSFORD:

So we could see the LSST paid back if we were to sweep these accounts from the districts being out two, four, six years kicking the can beyond the current biennium to potentially two future biennia of the budget process to repay the districts. Is that what you are saying?

MS. GANSERT:

It is a trigger. It would be money that would have ordinarily reverted. It may take some time to do that, but there is an effort to actually replenish that.

There is a bill, Assembly Bill No. 183, that has no trigger on it. We recognize the money is important to the school districts. It is an effort to help them bridge and to keep more dollars in the classroom. As far as some of the other items in the \$1.1 billion, much of it is continuation of what has been going on for the last two years, of what this Legislature has approved as far as the 9-cent property tax. We have it being redirected toward the university system. Right now, it goes to General Fund. The room tax is currently being used in the General Fund, I.P.1 of the 75th Legislative Session. We are looking at changing that statute to continue that. As far as the prepayment of the mining, that is a continuation of the prepayments. Much of this is continuation of what the Legislature decided to do over the last few years and during some of the Special Sessions.

SENATOR HORSFORD:

The problem with that is that the Governor is relying on past actions, not all of those actions were taken by us. We did not do the insurance premium tax securitization, which is \$190 million of that portion. The repayment of that takes it over \$200 million. Any Governor's job is to prepare a balanced budget. You are saying the Governor's budget is the temporary short-term Special Session actions that Legislatures took under limitations that were placed on us by a Governor that refused to include in the call things that would have allowed us to consider other options. The Governor's plan to balance the budget is based actions taken by the Twenty-sixth Special Session, which were under considerable limitations? That is his plan for the State of Nevada for the next two years?

MS. GANSERT:

No, it is not. Most of those actions were taken during the 2009 Session when we were just starting this economic downturn. There are some small pieces from the Twenty-sixth Special Session. If you would like me to talk about the Insurance Premium Tax, I can do that. The Legislature chose the Local Government Investment Pool (LGIP). They never used it. The Insurance Premium Tax is something we may never use, either. It covers an amount just a little above what is required as far as the ending fund balance. It is something that was an effort to mitigate cuts, but it is small on a relative basis in comparison to this budget. These are things that are a continuation of the decisions made by the 2009 75th Legislature.

SENATOR HALSETH:

Thank you, Mr. Chair. Is it accurate to say that the 2003 72nd Legislature raised taxes by a billion dollars and also in 2009 raised taxes by billion and our schools are continuing to decline as measures by graduation rates?

MR. CLINGER:

That is a correct statement.

SENATOR HORSFORD:

I do know that it is accurate related to our graduation rates. We can get that statistic. They are not good, but I do not know that they have gotten worse. They are not going to get any better under this budget.

SENATOR SETTELMAYER:

Thank you, Mr. Chair. I appreciate the concept of not kicking the can down the road and I eagerly await a hearing on my first PEB bill in Senate Finance so we can quit kicking many cans down the road.

I have a question about the bonds. I am curious on the concept, in my community, that things have changed over time. Things used to be constantly growing and we were constantly building new schools. Lately, it has all been going to rehab existing structures. We closed a middle school at Lake Tahoe this past year. When my father was on the school board, we never thought we would ever have that problem in Douglas County. Are any of the other districts building new schools at this time, or issuing new bonds to do that or not?

MR. CLINGER:

There is very little new construction going on. A few years ago, in Clark County in particular, the saying was that they built a new school every month. The growth in enrollment due to the recession in Nevada has slowed. There is very little growth. There is very little new construction going on. You would have to ask the districts specifically as to what new facilities they are building.

SENATOR CEGAUSKE:

Thank you, Mr. Chair. I wanted to emphasize again, you have addressed this issue, the Chair has reviewed the debt service. I want to make certain everyone understands that the Governor did have a plan to pay it back. I am still concerned people believe that the Governor is eliminating class size reduction, that the Governor is eliminating full-day kindergarten and other programs. I would like you to address this issue.

I give the Governor and his staff a lot of credit. This is a difficult time for all of us. You did the best job you could with the money we have under the circumstances. I think that the statements the Governor and his staff have made to us, Mr. Chair, is that they are willing at any time to take any recommendations or suggestions. I have gone to them with concerns within our caucus. They have addressed them. There has been some funding, \$42 million, brought back. Some of the areas we were concerned about, the camps, and autism, have had money put back in. We still have an opportunity in May when the Economic Forum comes, that we may be looking at more funding.

I want to thank you and I know the grilling has not been easy for you. We appreciate all of the efforts that you have put towards this. We look forward to working with you. I know the Chair has said the same, but I want to tell this body that the Governor has said on many occasions that if we have recommendations or suggestions on any budget to present them to him. To my knowledge, nothing has been presented to you as a suggestion or a recommendation. Is that correct?

MR. CLINGER:

To touch on the block grant and class-size reductions, they go together; originally in the Governor's Executive Budget we had recommended a block grant in both years, FY 2012 and in FY 2013. That block grant would take categorical funding like class-size reduction, like full-day kindergarten and put it into a block grant to give control to the school districts on where they spent the funds. After meeting with the school districts and hearing their concerns, we have modified that request and put the block grant only in the second year to give them a year to adapt to the new model. To say that we are eliminating class-size reduction is not true. The school districts can still implement class-size reduction out of the block grant. But it is their choice. If they would rather spend more money on full-day kindergarten, that is allowed under the block grant. Right now, those are categorical items that they cannot move that money between. We are offering them flexibility.

To the point about the add-backs, as we have had changes in revenue, changes in caseload, we have put those into areas of priority. The \$41 million went back into Health and Human Services. We have taken what would have been identified through this process as the most critical items and have added money back in those areas. The Economic Forum will meet again on May 2 and provide a new forecast for this body to use when preparing the budget. The Governor has stated that his priority is to put any additional revenue from the Economic Forum into education. We look forward to working with this body and the other house on those priorities and those add-backs.

SENATOR HORSFORD:

Thank you for being here today. We look forward to working with you and with the Governor to reach some consensus and agreement on responsible ways to balance the State Budget. We appreciate you answering the body's questions.

Dr. DOTTIE MERRILL (Nevada Association of School Boards):

My role this afternoon is to pull together some of the pieces you have heard earlier today about one of the Governor's proposals in the State of the State address and now embodied in Assembly Bill No. 561 and to share information with you about sweeping what is called the Debt Reserve Service Fund maintained by school districts having roll over bonds. Thank you for this opportunity, Mr. Chair.

Marty Johnson of JNA Consulting, who serves as the bond advisor for 12 of the school districts excluding Clark, is testifying from Las Vegas. We are a duet on this presentation. With your permission, Mr. Chair, I have some comments then Mr. Johnson has additional information.

You have heard the term "rollover bonds" over and over today. I would like to begin by clarifying what they are.

First, school districts go to the voters in their counties with a plan for improving the educational environment, which may entail school construction, revitalization, and modernization.

The language is specific. This is the language from the Douglas County School District bond question in 2008.

"Shall Douglas County School District be authorized to issue general obligation school bonds to finance the acquisition, construction, improvement, and equipping of school facilities? District projections at the time the bonds are issued must indicate that issuance of the bonds will not result in an increase of the existing school bond property tax rate of 10 cents per \$100 of assessed value. That portion of the taxes generated by this tax rate that is not needed for payment of the bonds and purposes related to bonds including the required reserves for bonds in any year may be used for capital projects for the District. If approved, this authorization will expire November 4, 2018."

If the question is approved by the voters, the taxpayers continue paying property taxes based on the same school district debt rate that existed prior to the election. Approval of the question allows the district to issue bonds, and in some cases transfer money for pay-as-you-go, for up to a ten year period. Issuance of bonds is conditioned upon the ability to repay the bonds within the existing tax rate.

Second, what is the Debt Service Reserve Fund? When the rollover bond concept was passed, there were concerns that the taxpayers' interest' needed to be protected and that a mechanism should be implemented to ensure that school districts would not require a tax rate increase to repay these bonds.

As a result, the Legislature included in Assembly Bill No. 353 of the 69th Legislative Session the requirement that each district issuing rollover bonds must retain in reserve an amount equal to the principal and interest payment for the following fiscal year. This reserve generally comes from local property taxes and is held in the Debt Service Reserve Fund to ensure that the district can pay its principal and interest payments as required. Some districts have also used and plan to use bond proceeds to meet the reserve requirement. Debt service funds are created to account for the cash flows related to these bonds, which are repaid solely from property taxes. In other words, revenues from the property tax rate levied to support these voter-approved bonds are deposited into the Debt Service Reserve Fund and the payments on the bonds are made from the

Debt Service Reserve Fund. Certain districts have voter approval to transfer monies from the Debt Service Reserve Fund in excess of those required to pay debt service and maintain the reserve for capital projects.

Among Nevada school districts, four have voter approval to only issue bonds under the rollover statute. They are Lyon, Nye, Storey and Washoe.

Six other districts have voter approval to issue bonds and transfer for pay-as-you-go under the rollover statute. They are Carson City, Churchill, Douglas, Humboldt, Pershing and White Pine. Clark County is in a unique position and their representatives have already talked about that.

Third, what is the proposal to sweep? Although this Debt Service Reserve Fund sweep has had several different iterations, the current proposal is contained in Assembly Bill No. 561. It is to sweep all funds from Clark County and Washoe County debt reserve accounts except for 10 percent, thereby taking 90 percent of all funds available on July 1, 2011.

For the remaining counties having rollover bonds, the Governor's proposal would take 75 percent of the funds available on July 1, leaving only 25 percent for the purpose of repaying the principal and interest. Again, it should be emphasized that this proposal takes money that has been approved by the taxpayers and accumulated for the improvement of school facilities in their district. An example would be, upgrading technology connections so that classrooms can continue to use computers in instruction and enrichment activities or replacing a worn-out HVAC system so the classroom temperature can be maintained at a comfortable level that will enable children to learn and achieve.

In the State of the State address, the Governor proposed to sweep 50 percent of the Debt Service Reserve funds across Nevada's school districts and stated that these debt service reserve fund sweeps would total \$425 million. That has proved, however, to be a higher number than is available from this single source at that percentage. Earlier in the Session, another proposal was presented by the Executive Budget Office which involved taking all debt service reserve funds down to an 8 percent balance and, in addition, taking the Government Services Tax funds from Clark and Washoe school districts. According to this revised proposal, it appeared that approximately \$301 million would be collected.

The proposal in Assembly Bill No. 561 has now shifted from maintaining a 50 percent requirement to a 10 percent requirement for Washoe and Clark and 25 percent for remaining counties having rollover bonds. With information that is still uncertain about property tax projections, it is not clear what this sweep of Debt Service Reserve funds would yield.

You might ask, "What is the big deal here?" Many of Nevada school districts have facilities that are 100 years old. In White Pine, there is a school still in use that is 108 years old. Even facilities that are not as old need refurbishments including updated heating and air conditioning systems, repairs to their cement walls and other types of maintenance. If school facilities are not maintained and repaired appropriately, when the Government Services Tax is also swept, there are simply not enough funds available for making even emergency repairs. Please note that we are not talking about what some people might call frills. We are talking about the basics like boilers, emergency repairs to roofs, air conditioning, etc.

What are the consequences of this proposal as we look across Nevada school districts?

First, school districts will have to defer their planned revitalization projects but they cannot defer their debt payments. Some districts may discover that the remaining funds are not enough to pay the principal and interest owed.

Second, such a small remaining balance at either 10 percent or 25 percent leaves a slim margin for error in factors that cannot be controlled by school districts. What if property tax collection rates are less than anticipated? What if there is a further decline in assessed value? What if there are fluctuations in net proceeds?

Third, when school districts defer needed repairs, what may happen is that there are catastrophic system failures that result in higher emergency costs in the future.

How will these funds be repaid? There is no repayment mechanism in Assembly Bill No. 561 although you have heard earlier today about such a proposal. School board members are concerned about the economic conditions that will be required to repay this money in anything short of ten years.

One of the consequences is that voter trust will be impaired which will make it difficult if not impossible to pass school bond questions in the future. During bond campaigns, voters always

ask whether the funds will be used for paying salaries and operations. Up to now, school districts have been able to honestly respond, "No." Now school districts will have to say that the funds are intended for school facilities; however, there is no guarantee that this will be the case.

Most importantly, school facility improvements, extending technology access, improving the physical plant by replacing roofs or boilers, making it possible for children with hearing problems to hear their teachers, and other improvements, all of these will be postponed which means that children will lack the environment they need to learn and achieve.

On behalf of Nevada school boards, we respectfully submit that this is not a good idea and would be a very unfortunate shift in public policy. To use an analogy, this is like buying groceries today with money needed next month to pay your mortgage. This is a one-time fix for the State's budget; however, school districts, schools and the local communities they serve will feel the negative impact of losing these funds long into the future.

To conclude, sweeping these funds will create a hole that will need to be filled in the next budget cycle and will eliminate the ability to utilize these funds to improve school facilities as they were originally intended to do. In the meantime, thousands of boys and girls across Nevada will suffer with the conditions that make instruction more challenging for their teachers and that will make learning less likely for them.

Thank you for your thoughtful consideration of these factors in the big picture of this issue. Thank you also for your service during these difficult economic times.

MARTY JOHNSON (JNA Consulting, Bond Consultant for 12 Nevada School Districts):

There are a number of school districts that have pay-as-you-go options available within their rollover question. One is from the Douglas County School District. That is a provision that was put into law in 2007 during that session. The school districts that have been to the ballot since that time have all included that pay-as-you-go component where the property tax revenues that come in over and above debt service and was needed to maintain that reserve can be used for capital projects on a pay-as-you-go basis. Additionally the reserve fund is funded from property tax revenues that the voters pay as a result of approving a rollover bond question. Occasionally, a school district has bond proceeds used to help meet that reserve requirement. This has happened in Washoe County and Carson City. Bond proceeds are put in there. In February, the Carson City School District issued bonds. We put \$1.5 million of the bond proceeds into that reserve account. Provisions will need to be made to make certain those funds are not swept, because that does create a host of federal tax problems.

There was a question raised earlier about the use of the reserve and whether that has happened yet. I cannot speak for Clark County because I do not work with them, but in the other districts, the only one I am aware of where we have hit the reserve to a small extent, is the Storey County School District. That situation is going to be changing over the next few years. As part of issuing the rollover bonds, the school district has to demonstrate that they will be able to repay the bonds from what the projected property tax revenues will be.

In the past few years, we have seen declines in assessed values unforeseen by anyone. We are going to see school districts that will need to draw on the reserve account in terms of being able to repay their bond, as the Clark County School District testified to earlier today. Nye County School District has annual debt service that ranges from about \$7.5 million to \$8.1 million over the next five to six years. If Assembly Bill No. 561 were to pass, on July 1, 2011, the debt service fund balance for Nye County School District would be taken down to just over \$2 million. With the 30 percent drop in assessed value that has been projected for Nye County for 2012 and assuming the advanced payment of net proceeds is continued, property tax revenues are expected to be just under \$7 million. It would not take too long before that annual shortfall wiped out that debt service fund balance and Nye County School District would be required to increase their property tax rate in order to repay those bonds.

As Dr. Roberts mentioned earlier today, that creates additional concerns on our part because in NRS 361.457 there is the provision that if it is determined by the Department of Taxation that a school bond has caused the tax rate to go over \$3.64 the school may be forced to compensate the local governments that have to lower their rate in order for all of the rates to fit within the \$3.64 limit. Currently, Tonopah and Amargosa are at that \$3.64 limit. It is possible that at a time

when the school district needs to raise their rate they will have to compensate other local governments for lowering their rate and do so out of their general fund.

SENATOR HORSFORD:

Can you explain to us the process you just outlined? If the bond rating required the increase and the county was already at the cap, then the district would have to reimburse the county in some way?

MR. JOHNSON:

Yes. For instance, in round numbers, Nye County School District levels a tax rate of 58.5 cents to repay their bonds. The tax rate in Tonopah is at the \$3.64 limit. Because of where assessed value goes, Nye County School District has to raise their rate by 10 cents. There is not 10 cents of room in Tonopah. Some local government that overlaps the town of Tonopah will have to lower their rate by 10 cents. If the provisions of NRS 361.457 are met, and that \$0.10 raises \$25,000 in Tonopah, it is possible that the school district, out of their general fund, would have to pay that local government the \$25,000 to make up for them lowering their tax rate. That would continue until the point in time that the tax rate was no longer a problem in terms of that \$3.64 limit.

SENATOR HORSFORD:

How many counties are at the \$3.64 rate?

MR. JOHNSON:

The majority of counties where there are rollover bonds have jurisdictions that are within \$0.10 or \$0.15 of the \$3.64 limit if not at the \$3.64 limit.

I would like to make three more points.

Looking at this proposal on projections, Assembly Bill No. 561, as written, takes the money out July 1, 2011. If we look at projecting property tax revenues, if the projection is that property tax revenues will increase by 5 percent or 7 percent, what happens when property tax revenues because of declines and assessed value come in 5 percent, 6 percent or 10 percent lower than the year before? These things need to be taken into account.

The payback we heard about this morning will be included in another bill. I believe the goal is to sweep somewhere between \$50 million and \$53 million from the Washoe County School District. LSST, according to the Department of Taxation is projected to generate \$110 million in 2012. You can see how long it might take for that \$50 million to get repaid to the Washoe County School District.

I would like to address the impact on the bond ratings. For all of the reasons we have been mentioning, this could have an adverse impact on the bond ratings, increasing the amount of interest that school districts will need to pay on bonds going forward. There was a comment made earlier about the Permanent School Fund Guarantee Program (PSF). It is a fantastic program. It gives the school districts the AAA rating on the bonds. Some of the districts are at the \$40 million limit as it applies to the PSF guarantee. They cannot guarantee any more bonds until outstanding bonds are paid off. Bond buyers are looking through the guarantee to the bond rating of the specific district. A district with an A+ rating with the PSF guarantee on it is going to get a much better interest rate than a district with a BBB bond rating with a PSF on it. While the PSF helps and it is wonderful to have that guarantee program, it in of itself does not totally protect the districts against increased interest cost from a decline in their bond rating.

Thank you for the opportunity to make these comments.

SENATOR HORSFORD:

How long have you been bond counsel for the districts?

MR. JOHNSON:

Actually, financial advisor. Bond counsel is a term we use for the lawyers. I have been working with school districts for 21 years and have been involved with every rollover bond election that has happened in this State.

SENATOR HORSFORD:

How many school districts have you been financial advisor to?

MR. JOHNSON:

During those 21 years, I have worked with every school district except Lander.

SENATOR HORSFORD:

Based on your 21 years of experience, would you view this as a fiscally prudent proposal?

MR. JOHNSON:

I understand the dilemma of putting the money in because money is needed in a variety of ways, but my biggest concern is that voters voted to pay property taxes based on this money being used to improve facilities. If we transfer this money and use it for operations, we create a hole for a future budget and we use the money that would otherwise be able to be used to improve the facilities. It seems like the school districts are going to lose on both counts.

DR. KEITH W. RHEAULT, Ph.D. (Superintendent of Public Instruction, Department of Education, State of Nevada):

Last night, Speaker Ocegüera started his session with the Assembly Committee of the Whole with the question, "What kind of schools and education do we want to have for our children in Nevada?" My response to his question is short and to the point.

If we are satisfied with overcrowded schools, schools that provide limited access to textbooks, schools that reduce the instruction at the elementary level in art, P.E., music, computers; and at the secondary level that have eliminated electives and reduced the career tech programs that keep students in school, with schools that are poorly maintained, schools without counselors or libraries, then we are headed on the right path.

I am not making this up as a scare tactic. In the survey entitled *Planned Program Cuts*, which you received from the school districts presented by Dr. Roberts, every one of the 17 school districts and charter schools are discussing these issues right now. The districts have been in the business of reducing their budgets since 2008. They have reduced a lot from their budgets and have cut many programs during that time. The cuts have caused us to scrutinize other issues. Four districts are contemplating either closing or consolidating schools. There are three districts that are looking at reducing their five-day school weeks to four. Two districts are considering reducing transportation for students. All of these are topics that are being discussed as a part of the proposed Governor's recommended budget as it is today.

It can be and has been argued that funding provided by the State does not, in itself, equate to student achievement. In all cases, it could be argued that it does not. But, what you can argue, if you look at the cuts and the planned cuts that are being proposed by the school districts, you cannot say that it does not affect the quality of education in our schools. Students who do not have access to P.E. because the P.E. teacher was laid off, or if the computer teacher is laid off and there is no one to teach the computer classes, all of that affects the quality of life no differently than if the citizens of a city close up their parks and libraries. That, too, affects the quality of life for individuals.

The budgets being discussed today are budgets that the Department of Education receives and 100 percent of the funding is passed down to the school districts. The Department is reliant on the elected school board members of each of the 17 districts and the school administration to make certain they use every dollar to the best of their ability by getting it to the classroom level to improve student achievement. They are doing the best they can with what they are going to receive.

Last night in the Assembly Committee of the Whole there were discussions about whether these were cuts, budget reductions, or transfer of funds. For example, is the money that is not being put in for teachers who earn a master's degree a cut or just a non-budget item? When you cut your finger, it hurts. When you look at all of the cuts being proposed, that hurts.

SENATOR GUSTAVSON:

Thank you, Mr. Chair. Every one of us knows what the problems are and how bad things are going for the school districts in Nevada. I am certain we are not the only state having these

problems. Do you know of any other districts in the country that are having similar problems, and if so, do they have any innovative ideas as to how they are solving their problems?

DR. RHEAULT:

I meet with other superintendents from across the country. There are some in as bad a shape as Nevada is regarding their K-12 budgets. Utah, New Mexico and Arizona are all running into severe budget problems. Arizona is short billions. They increased their sales tax last session. Others are cutting similar to Nevada by reducing funding going to schools, class sizes are going up and limiting everything, as we are talking about in Nevada. Other states are doing everything from cutting to finding new revenue.

SENATOR CEGAVSKE:

Thank you, Mr. Chair. I have many comments I would like to make, but I will not because we have probably debated them in every Education Committee hearing I have talked in, but I am offended by some of the comments you have made in your opening statement.

To Dr. Rheault, I would like to ask what are the decisions you have made to improve education in the State of Nevada during the years you have been here? What are you specifically going to be doing and what has been the discussion with your Board of how you are going to improve education?

I know that is a broad statement, I know you are working with some groups, but over the years, all I have seen is the same from your Board and from professional standards. I have seen the same ideas coming out and I have seen the same people dictating to the Department of Education and to the Board as to what they want or do not want. I want to find out today. You did not mention anything about what are you looking for. Where are you going to help improve the education for the children, help improve the education the teachers receive in higher education to become excellent teachers? The growth of the students, everything we have talked about today, all of education rests on the Department of Education. I have not seen you step up to the plate for all of it. It is not just you, it is your predecessors. But, we have not given our all through the Department of Education, through professional standards, in all of those areas for what the students, what the teachers, and what the parents need in the State of Nevada. What is your plan?

SENATOR HORSFORD:

With all due respect, that is a very broad question. I want to have the discussion, but we have other business we need to complete this afternoon. I would be happy to invite the Superintendent back to answer your question. I would like to explain that the policy for education is set by the Legislature and the Governor. The implementation of that policy is carried out through regulation by the Department of Education. If we are going to have that discussion about whose responsibility it is to improve student learning, then we have to look at ourselves and not point the finger. Superintendent Rheault has a responsibility and he should be held accountable. I want to give him that opportunity. But, I also want us to talk about what our jobs are as Legislators as well as part of that discussion.

SENATOR CEGAVSKE:

So you are not going to let him answer my question?

SENATOR HORSFORD:

Not at this time, because we need to move on and get back to the body, but I will invite Superintendent Rheault back on Friday for him to answer your question and for us to have a more extensive dialogue about all of our responsibilities as elected and appointed officials on how we improve student learning together.

On the motion of Senator Wiener and second by Senator Parks, the Committee of the Whole did rise, return and report back to the Senate.

Motion carried unanimously.

SENATE IN SESSION

At 4:23 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bills Nos. 10, 15, 24, 26, 38, 40, 57, 81, 106, 110, 112, 127, 130, 142, 144, 152, 154, 159, 180, 182, 187, 194, 196, 198, 209, 213, 238, 248, 251, 256, 259, 262, 268, 273, 277, 281, 284, 288, 294, 304, 309, 315, 331, 361, 368, 375, 376, 392, 393, 402, 403, 406, 411, 417, 432, 488, 495; Senate Joint Resolution No. 8; Assembly Bills Nos. 30, 144, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Commerce, Labor and Energy:

Senate Bill No. 496—AN ACT relating to renewable energy; revising provisions governing the Solar Energy Systems Incentive Program; requiring the reallocation of certain capacity in the Solar Program under certain circumstances; revising provisions relating to net metering systems; revising the definition of "biodiesel"; requiring under certain circumstances that all diesel fuel sold, offered for sale or delivered in this State contain a certain percentage of biodiesel; providing a penalty; and providing other matters properly relating thereto.

Senator Breeden moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 449.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 413.

"SUMMARY—Revises provisions governing tuition charges, registration fees and other fees assessed against students in the Nevada System of Higher Education. (BDR 34-932)"

"AN ACT relating to the Nevada System of Higher Education; authorizing the Board of Regents of the University of Nevada to fix tuition charges and assess registration fees and other fees based on the demand for or the costs of providing the academic program or major for which the tuition charges are fixed or the registration fees are assessed; requiring the Board of Regents to establish a program authorizing scholarships, ~~tuition~~ **and** reduced fees ~~and tuition and forgiveness of student loans~~ for students who are economically disadvantaged under certain circumstances; requiring the Board of Regents to

make certain reports to the Legislature ~~;~~ ~~under certain circumstances;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to fix tuition charges for students at all campuses of the Nevada System of Higher Education. The tuition charges are in addition to any registration fees or other fees assessed against a student. (NRS 396.540) ~~(This)~~ **Section 2 of this** bill authorizes the Board of Regents, in fixing tuition charges and assessing registration fees and other fees, to adjust the amount of the tuition charges and registration and other fees based on the demand for or the costs of carrying out the academic program or major for which the tuition charges or registration or other fees are assessed. The adjustment may be based on factors such as the cost of professional instruction, the cost of laboratory resources and ancillary costs. ~~(This bill)~~ **Section 2 also** provides that if the Board of Regents adjusts the amount of tuition charges, registration fees or other fees based on the demand for or the cost of an academic program or major, the Board is required to establish a program to authorize scholarships ~~and reduced fees and tuition and forgiveness of student loans~~ for students who are economically disadvantaged and who are enrolled in academic programs or majors which are more costly as a result of the adjustments authorized by this bill.

~~† This bill~~ **Finally, section 2** requires the Board of Regents to submit an annual report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the Legislature is not in session, which identifies the demand for and the costs of each academic program and major and includes a schedule of all tuition charges, registration fees and other fees assessed for each academic program and major.

Section 3 of this bill requires the Board of Regents to submit a biennial report to the Legislature including certain information on: (1) the number and percentage of students who complete academic programs at an institution within the System with a degree or certificate and a comparison with national statistics; (2) initiatives undertaken by the Board of Regents to increase the rate of students who complete academic programs with a degree or certificate; (3) based upon surveys of students, the employment rate of students who complete a degree or certificate program and the average starting salary; and (4) initiatives undertaken by the Board of Regents to align the degree and certificate programs offered by institutions within the System with the economic development goals identified by the Commission on Economic Development.

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

Section 1. Chapter 396 of NRS is hereby amended by adding thereto ~~the new section to read as follows:~~ the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. In fixing a tuition charge for students at any campus of the System as provided by NRS 396.540 and in setting the amount of registration fees and other fees which are assessed against students, the Board of Regents may provide for the adjustment of the amount of the tuition charge or registration fee or other fee based on the demand for or the costs of carrying out the academic program or major for which the tuition charge, registration fee or other fee is assessed, including, without limitation, the costs of professional instruction, laboratory resources and other ancillary support.

2. If the Board of Regents provides for the adjustment of tuition charges, registration fees or other fees in the manner authorized by subsection 1, the Board of Regents shall establish a program to authorize scholarships ~~for~~ and reduced fees ~~and tuition and the forgiveness of student loans~~ for students who are economically disadvantaged and who are enrolled in academic programs or majors for which the adjustment of tuition charges, registration fees or other fees in the manner authorized by subsection 1 results in an increase in the costs of enrollment in such programs or majors.

3. If the Board of Regents provides for the adjustment of tuition charges, registration fees or other fees in the manner authorized by subsection 1, the Board of Regents shall, on or before February 1 of each year, submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the Legislature is not in session, which must, without limitation:

- (a) Identify the demand for each academic program and major;*
- (b) Identify the costs of providing each academic program and major;*
- and*
- (c) Include a schedule of all tuition charges, registration fees and other fees assessed for each academic program and major.*

4. As used in this section, "tuition charge" has the meaning ascribed to it in NRS 396.540.

Sec. 3. The Board of Regents shall, on or before February 1 of each odd-numbered year submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature which includes:

1. By institution within the System and by each academic program at the institution:

- (a) The number of students who enter the academic program;*
- (b) The percentage of students who complete the academic program;*
- and*
- (c) The average length of time for completion of the academic program to obtain a degree or certificate.*

2. A comparison of the data which is reported pursuant to subsection 1 with available national metrics measuring how states throughout the country rank in the completion of academic programs leading to a degree or certificate and the average time for completion of those programs.

3. Initiatives undertaken by the Board of Regents to increase the rate of students who complete degree and certificate programs, including initiatives to shorten the time to complete those programs.

4. Based upon surveys of students who have completed an academic program and obtained a degree or certificate, the number and percentage of students who have obtained employment within their field of study, and the average starting salary, which must be reported by institution within the System and by each academic program at the institution. The data must be matched with industries identified in state economic development goals to determine whether students who graduated and obtained a degree or certificate are finding employment in those industries.

5. Initiatives undertaken by the Board of Regents to align the degree and certificate programs offered by the institutions within the System with the economic development goals identified by the Commission on Economic Development.

~~{Sec. 2}~~ Sec. 4. This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Senator Denis requested that his remarks be entered in the Journal.

Amendment No. 413 makes two changes to Senate Bill No. 449. First, the amendment deletes the requirement that the Board of Regents of the Nevada System of Higher Education (NSHE) establish a program to forgive tuition and students loans for economically disadvantaged students, if a higher differential fee has been established for an academic program or major, as authorized in the bill as a whole. Other provisions regarding scholarships and reduced fees for such students remain in the measure. Second, the amendment establishes the content of a biennial report to the Legislature concerning NSHE's degree and certificate programs. Among other things, the report must include linkages to the State's economic development goals and the success rate in placing new graduates in targeted industries.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Denis moved that Senate Bill No. 449 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 451.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 473.

"SUMMARY—Revises provisions governing tuition charges, registration fees and other fees assessed against students enrolled in institutions of the Nevada System of Higher Education. (BDR 34-933)"

"AN ACT relating to the Nevada System of Higher Education; providing that any **increase in any** tuition charge, registration fee or ~~other~~ **miscellaneous student** fee assessed against a student by a university, state college or community college within the System must be retained by that institution and used to support academic programs and other services, activities and uses which advance the educational needs of the students enrolled at the institution and the educational goals of the institution or which otherwise benefit such students; requiring the Board of Regents of the University of Nevada to submit an annual report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or the Legislative Commission concerning the use of money collected from tuition charges, registration fees and other fees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to fix a tuition charge for certain students at all campuses of the Nevada System of Higher Education. Tuition charges are in addition to registration fees and other charges assessed against students. (NRS 396.540) This bill provides that any **increase in any** tuition charge, registration fee or ~~other charge~~ **miscellaneous student fee** assessed against a student **over the amount that would have been assessed on January 1, 2011,** must be retained by the university, state college or community college at which the student is enrolled. This bill further provides that money collected from **increases in** tuition charges, registration fees and ~~other charges~~ **miscellaneous student fees** must be used to support academic programs and other services, activities and uses which advance the educational needs of the students enrolled at the institution and the educational goals of the institution or which otherwise benefit such students.

This bill requires the Board of Regents to submit an annual report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the Legislature is not in session, which must include for each university, state college and community college information concerning: (1) the allocation of money collected from tuition charges, registration fees and other charges to each academic program; (2) progress in advancing the educational goals of the institution; (3) whether the expenditure of money collected from tuition charges, registration fees and other charges aligns with the economic development goals identified by the Commission on Economic Development or any regional economic development authority or local redevelopment agency for the region of this State in which the institution is located; and (4) the number of students entering each academic program or major and the number of certificates and degrees awarded by each academic program and major.

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

Section 1. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Any~~ The amount of any tuition charge, registration fee or ~~other~~ miscellaneous student fee assessed against a resident or non-resident student in excess of the amount that would have been assessed as of January 1, 2011, must be retained by the university, state college or community college at which the student is enrolled. Money ~~collected from tuition charges, registration fees and other fees~~ retained pursuant to this subsection must be used by the university, state college or community college to support academic programs and other services, activities and uses which advance the educational needs of the students enrolled at the institution and the educational goals of the institution or which otherwise benefit such students.

2. The Board of Regents shall, not later than February 1 of each year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature in odd-numbered years or the Legislative Commission in even-numbered years, a written report concerning the use of money collected from tuition charges, registration fees and other fees by each university, state college or community college within the System. The report must include, without limitation, for each university, state college or community college within the System information concerning:

(a) The allocation of money collected from tuition charges, registration fees and other fees to each academic program offered by the university, state college or community college;

(b) Progress in advancing the educational goals of the institution;

(c) Whether the expenditure by the institution of the money collected from tuition charges, registration fees and other fees aligns with the economic development goals identified by the Commission on Economic Development or any regional economic development authority or local redevelopment agency for the region of this State in which the institution is located; and

(d) The number of students entering each academic program and major offered by the institution, and the number of certificates and degrees awarded by each academic program and major.

3. As used in this section ~~the~~ "tuition" :

(a) "Miscellaneous student fee" means any fee other than a tuition charge or registration fee that, as of January 1, 2011, was not being retained by the university, state college or community college at which the student is enrolled. The term does not include a special course fee, laboratory fee or differential program fee.

(b) "Tuition charge" has the meaning ascribed to it in NRS 396.540.

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

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Senator Denis requested that his remarks be entered in the Journal.

Amendment No. 473 to Senate Bill No. 451 clarifies that the provisions of the bill relating to the retention of registration fees and tuition charges at the institution where the fee is assessed applies prospectively to tuition and fee increases assessed as of January 1, 2011. Further, the amendment specifies that special course fees, laboratory fees, and differential program fees, are not subject to the provisions of the bill as a whole since those charges are already retained by each institution through current policies of the Board of Regents. Miscellaneous fees that would be included within the provisions of the bill are those charges that are currently not retained by the institution.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Denis moved that upon return from reprint, Senate Bill No. 451 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 53.

Bill read second time.

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

Amendment No. 201.

"SUMMARY—Excludes ~~locations where~~ certain programs ~~are operated by a local government to~~ that supervise children from certain licensing requirements. (BDR 38-242)"

"AN ACT relating to child care facilities; excluding ~~in a location where a program is operated by a local government to supervise children during certain times~~ certain seasonal or temporary recreation programs and out-of-school recreation programs from certain licensing requirements; requiring certain out-of-school recreation programs to obtain a permit; establishing certain requirements for the operation of an out-of-school recreation program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a child care facility to be licensed by an agency created by a city or county for the licensing of child care facilities or by the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services. (NRS 432A.131, 432A.141) **Section ~~11~~ 12** of this bill revises the definition of "child care facility" to exclude from the term ~~in a location where a program is operated by a local government to provide supervision of children before or after school, during the summer or other seasonal breaks in the school calendar or between sessions~~ certain seasonal or temporary recreation programs and certain out-of-school recreation programs so that such ~~locations~~ programs are not required to be licensed. **Sections ~~12-4~~ 13-15** of this bill revise provisions

that apply the same definition of "child care facility" for other purposes so that the definition does not change in those provisions.

Section 5 of the bill requires a local government to obtain a permit to operate an out-of-school recreation program. To obtain a permit, the local government must complete an application, pay a fee and meet certain requirements. Section 6 of this bill requires a local government that operates an out-of-school recreation program to comply with certain health and safety standards and to comply with other requirements relating to the safety of participants. Section 7 of this bill provides certain requirements for the staff of an out-of-school recreation program. Section 7 also limits the number of participants in a program and establishes certain components that must be included in such a program. Section 8 of this bill requires an out-of-school recreation program to maintain certain records about participants in the program. Section 9 of this bill requires a local government that operates an out-of-school recreation program to provide copies of certain inspections of the facility where the program is conducted according to a schedule established by the Bureau. If the local government submits such records, section 9 prohibits the Bureau from conducting any additional on-site inspections of the facility. Section 10 of this bill authorizes the Bureau to adopt any regulations necessary to provide for the permits to operate an out-of-school recreation program.

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. "Local government" means any political subdivision of this State, including, without limitation, a city, county, town, school district or other district.

Sec. 3. 1. "Out-of-school recreation program" means a recreation program operated or sponsored by a local government in a facility which is owned, operated or leased by the local government and which provides enrichment activities to children of school age:

(a) Before or after school;

(b) During the summer or other seasonal breaks in the school calendar;

or

(c) Between sessions for children who attend a school which operates on a year-round calendar.

2. The term does not include a seasonal or temporary recreation program.

Sec. 4. "Seasonal or temporary recreation program" means a recreation program that is offered to children for a limited time or duration and may include, without limitation:

1. A special sports event, which may include, without limitation, a camp, clinic, demonstration or workshop which focuses on a particular sport;

2. A therapeutic program for children with disabilities, which may include, without limitation, social activities, outings and other inclusion activities;

3. An athletic training program, which may include, without limitation, a baseball or other sports league and exercise instruction; and

4. Other special interest programs, which may include, without limitation, an arts and crafts workshop, a theater camp and dance competition.

Sec. 5. 1. To operate an out-of-school recreation program a local government must obtain a permit. The local government may apply for the issuance or renewal of a permit by submitting an application on a form prescribed by the Bureau. The Bureau shall issue a permit to operate an out-of-school recreation program to the local government upon payment of the fee prescribed in subsection 2 and upon satisfaction that the program complies with the requirements set forth in sections 2 to 10, inclusive, of this act, and any regulations adopted pursuant thereto.

2. The Bureau shall charge a fee for a permit to operate an out-of-school recreation program based upon the number of locations operated by the out-of-school recreation program. If the out-of-school recreation program has:

(a) At least 1 but not more than 5 locations, the Bureau shall charge a fee of \$100.

(b) At least 6 but not more than 20 sites, the Bureau shall charge a fee of \$250.

(c) At least 21 but not more than 40 sites, the Bureau shall charge a fee of \$500.

(d) At least 41 but not more than 60 sites, the Bureau shall charge a fee of \$750.

(e) At least 61 but not more than 80 sites, the Bureau shall charge a fee of \$1000.

(f) At least 81 sites, the Bureau shall charge a fee of \$1250.

3. A permit issued pursuant to this section is nontransferable and is valid:

(a) For 3 years from the date of issuance; and

(b) Only as to a location specifically identified on the permit.

Sec. 6. A local government that operates an out-of-school recreation program shall ensure that each location:

1. Complies with applicable laws and regulations concerning safety standards;

2. Complies with applicable laws and regulations concerning health standards;

3. Has a complete first-aid kit accessible on-site that complies with the requirements of the Occupational Safety and Health Administration of the United States Department of Labor;

4. Has an emergency exit plan posted on-site in a conspicuous place; and

5. Has not less than two staff members on-site and available during the hours of operation who are certified and receive annual training in the use and administration of first aid, including, without limitation, cardiopulmonary resuscitation.

Sec. 7. A local government that operates an out-of-school recreation program shall:

1. Complete, for each member of the staff of the out-of-school recreation program:

(a) A background and personal history check; and

(b) A child abuse and neglect screening through the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against the staff member.

2. Ensure that each member of the staff of the out-of-school recreation program:

(a) Meets the minimum requirements that have been established for the position; and

(b) Receives an orientation and training concerning the abuse and neglect of children.

3. Ensure that the number of participants in the out-of-school recreation program:

(a) Does not exceed a ratio of one person supervising every 20 participants; and

(b) Will not cause the facility where the program is operated to exceed the maximum occupancy as determined by the State Fire Marshal or the local governmental entity that has the authority to determine the maximum occupancy of the facility.

4. Ensure that the out-of-school recreation program includes, without limitation:

(a) An inclusion component for participants who qualify under the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.;

(b) Structured activities, including, without limitation, arts and crafts, games and sports;

(c) Nonstructured activities, which may include, without limitation, free time for playing;

(d) Regular restroom breaks; and

(e) Nutrition breaks.

Sec. 8. 1. The out-of-school recreation program shall maintain records containing pertinent information regarding each participant in the program. Such information must include, without limitation:

- (a) The full legal name of the child and the preferred name of the child;**
- (b) The date of birth of the child;**
- (c) The current address where the child resides;**
- (d) The name, address and telephone number of each parent or legal guardian of the child and any special instructions for contacting the parent or legal guardian during the hours when the child participates in the program;**
- (e) Information concerning the health of the child, including, without limitation, any special needs of the child; and**
- (f) Any other information requested by the Bureau.**

2. The distribution of any information maintained pursuant to this section is subject to the limitations set forth in NRS 239.0105.

Sec. 9. 1. A local government that operates an out-of-school recreation program shall provide a copy of each report of an inspection conducted by a governmental entity that is authorized to conduct an inspection of the facility where the program is operated, including, without limitation, the report of an inspection by a local building department, a fire department, the State Fire Marshal or a district board of health.

2. The Bureau shall establish a schedule for the submission of such reports which requires submission of a report of an on-site inspection once every 2 years and shall provide a checklist to the local government which identifies the reports that must be submitted to the Bureau.

3. The Bureau shall not require any additional inspections of the facility of an out-of-school recreation program which complies with the provisions of this section.

Sec. 10. The Bureau shall adopt any regulations necessary to carry out the provisions of sections 2 to 9, inclusive, of this act.

Sec. 11. NRS 432A.020 is hereby amended to read as follows:

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

~~{Section 11}~~ **Sec. 12. NRS 432A.024 is hereby amended to read as follows:**

432A.024 1. "Child care facility" means:

- (a) An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;
- (b) An on-site child care facility;
- (c) A child care institution; or
- (d) An outdoor youth program.

2. "Child care facility" does not include:

(a) The home of a natural parent or guardian, foster home as defined in NRS 424.014 or maternity home;

(b) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility; ~~for~~

(c) A home in which a person provides care for the children of a friend or neighbor for not more than 4 weeks if the person who provides the care does not regularly engage in that activity ~~for~~; ~~for~~

~~(d) A location where a program is operated by a local government to provide supervision of children;~~

~~(1) Before or after school;~~

~~(2) During the summer or other seasonal breaks in the school calendar;~~

~~or~~

~~(3) Between sessions for children who attend a school which operates on a year round calendar.~~

~~3. As used in this section, "local government" means any political subdivision of this State, including, without limitation, a county, city, town, school district or other district.~~

(d) A seasonal or temporary recreation program; or

(e) An out-of-school recreation program.

~~{Sec. 2}~~ **Sec. 13.** NRS 202.2483 is hereby amended to read as follows:

202.2483 1. Except as otherwise provided in subsection 3, smoking tobacco in any form is prohibited within indoor places of employment including, but not limited to, the following:

(a) Child care facilities;

(b) Movie theatres;

(c) Video arcades;

(d) Government buildings and public places;

(e) Malls and retail establishments;

(f) All areas of grocery stores; and

(g) All indoor areas within restaurants.

2. Without exception, smoking tobacco in any form is prohibited within school buildings and on school property.

3. Smoking tobacco is not prohibited in:

(a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to NRS 463.350;

(b) Stand-alone bars, taverns and saloons;

(c) Strip clubs or brothels;

(d) Retail tobacco stores; ~~and~~

(e) Private residences, including private residences which may serve as an office workplace, except if used as a child care, an adult day care or a health care facility; and

(f) The area of a convention facility in which a meeting or trade show is being held, during the time the meeting or trade show is occurring, if the meeting or trade show:

- (1) Is not open to the public;
- (2) Is being produced or organized by a business relating to tobacco or a professional association for convenience stores; and
- (3) Involves the display of tobacco products.

4. In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.

5. Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city or town from adopting and enforcing local tobacco control measures that meet or exceed the minimum applicable standards set forth in this section.

6. "No Smoking" signs or the international "No Smoking" symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited.

7. Health authorities, police officers of cities or towns, sheriffs and their deputies shall, within their respective jurisdictions, enforce the provisions of this section and shall issue citations for violations of this section pursuant to NRS 202.2492 and NRS 202.24925.

8. No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this section.

9. For the purposes of this section, the following terms have the following definitions:

(a) "Casino" means an entity that contains a building or large room devoted to gambling games or wagering on a variety of events. A casino must possess a nonrestricted gaming license as described in NRS 463.0177 and typically uses the word 'casino' as part of its proper name.

(b) "Child care facility" has the meaning ascribed to it in NRS ~~432A.024~~ **441A.030**.

(c) "Completely enclosed area" means an area that is enclosed on all sides by any combination of solid walls, windows or doors that extend from the floor to the ceiling.

(d) "Government building" means any building or office space owned or occupied by:

- (1) Any component of the Nevada System of Higher Education and used for any purpose related to the System;
- (2) The State of Nevada and used for any public purpose; or

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

(e) "Health authority" has the meaning ascribed to it in NRS 202.2485.

(f) "Incidental food service or sales" means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of NRS 446.870.

(g) "Place of employment" means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies and reception areas.

(h) "Public places" means any enclosed areas to which the public is invited or in which the public is permitted.

(i) "Restaurant" means a business which gives or offers for sale food, with or without alcoholic beverages, to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

(j) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(k) "School building" means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(l) "School property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(m) "Stand-alone bar, tavern or saloon" means an establishment devoted primarily to the sale of alcoholic beverages to be consumed on the premises, in which food service is incidental to its operation, and provided that smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section. In addition, a stand-alone bar, tavern or saloon must be housed in either:

(1) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this section; or

(2) A completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use.

(n) "Video arcade" has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345.

10. Any statute or regulation inconsistent with this section is null and void.

11. The provisions of this section are severable. If any provision of this section or the application thereof is declared by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect

the validity of the section as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

~~{Sec. 3}~~ **Sec. 14.** NRS 441A.030 is hereby amended to read as follows:

441A.030 **1.** "Child care facility" ~~has the meaning ascribed to it in NRS 432A.024.~~ **means:**

(a) An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;

(b) An on-site child care facility, as defined in NRS 432A.0275;

(c) A child care institution, as defined in NRS 432A.0245; or

(d) An outdoor youth program, as defined in NRS 432A.028.

2. The term does not include:

(a) The home of a natural parent or guardian, foster home as defined in NRS 424.014 or maternity home;

(b) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility; or

(c) A home in which a person provides care for the children of a friend or neighbor for not more than 4 weeks if the person who provides the care does not regularly engage in that activity.

~~{Sec. 4}~~ **Sec. 15.** NRS 444.065 is hereby amended to read as follows:

444.065 **1.** Except as otherwise provided in subsection 2, as used in NRS 444.065 to 444.120, inclusive, "public swimming pool" means any structure containing an artificial body of water that is intended to be used collectively by persons for swimming or bathing, regardless of whether a fee is charged for its use.

2. The term does not include any such structure at:

(a) A private residence if the structure is controlled by the owner or other authorized occupant of the residence and the use of the structure is limited to members of the family of the owner or authorized occupant of the residence or invited guests of the owner or authorized occupant of the residence.

(b) A family foster home as defined in NRS 424.013.

(c) A child care facility, as defined in NRS ~~{432A.024}~~ 441A.030, furnishing care to 12 children or less.

(d) Any other residence or facility as determined by the State Board of Health.

(e) Any location if the structure is a privately owned pool used by members of a private club or invited guests of the members.

Sec. 16. On or before July 1, 2012, the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services shall adopt regulations for the operation of out-of-school recreation programs pursuant to sections 5 to 9, inclusive, of this act.

~~{Sec. 5.}~~ *Sec. 17.* This act becomes effective upon passage and approval.

Senator Copening moved the adoption of the amendment.

Remarks by Senators Copening, McGinness and Kieckhefer.

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

SENATOR COPENING:

Amendment No. 201 revises Senate Bill No. 53 by revising the definition of "child care facility" to exclude from the term certain seasonal or temporary recreation programs and certain out-of-school recreation programs so that such programs are not required to be licensed, requiring local government to obtain a permit to operate an out-of-school recreation program. To obtain a permit, the local government must complete an application, pay a fee, and meet certain requirements mandating that these programs comply with certain health and safety standards, and other requirements relating to the safety of participants. The amendment establishes requirements related to staff, limits on enrollment, record keeping, and inspections.

SENATOR MCGINNESS:

Does this require the local government operation to follow the same regulations and permits as a private operation would?

SENATOR COPENING:

I do not know the answer to that. I do not know if there was a particular sponsor for this bill. It may have been a committee bill.

SENATOR MCGINNESS:

Does this require the governmental agency that operates this facility or program to meet the same criteria as a private one?

SENATOR KIECKHEFER:

It does not require the same criteria. The idea behind the bill was that government school districts would be running after school or out of school programs within a school or a recreational facility in which children are already placed throughout the course of the day. This would have some additional oversight requirements that they do not have now, but they would not have to meet the same licensing requirements that are currently met by private childcare providers in terms of facility or infrastructure. This was a compromise that was made between various local government entities and the State regulatory agency.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 64.

Bill read second time.

The following amendment was proposed by the Select Committee on Economic Growth and Employment:

Amendment No. 307.

"SUMMARY—Establishes a program for the investment of state money in certificates of deposit at a reduced rate of interest to provide lending institutions with money for loans at a reduced rate of interest to certain eligible entities. (BDR 31-522)"

"AN ACT relating to state obligations; establishing a program for the investment of state money in certificates of deposit at a reduced rate of interest to provide qualified lending institutions with money for loans at a

reduced rate of interest to certain eligible entities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the State Treasurer to invest the money of this State in ~~negotiable~~ certificates of deposit issued by commercial banks, insured credit unions or savings and loan associations. (NRS 355.140) **Section 9** of this bill requires the State Treasurer to establish the Linked Deposit Program, whereby the State Treasurer may, in an aggregate amount not to exceed \$20,000,000, invest in certificates of deposit with commercial banks, insured credit unions or insured savings and loan associations at a reduced rate of interest on the condition that the lending institution link the value of each such certificate of deposit to a loan at a reduced rate of interest to certain small businesses, political subdivisions of this State and institutions of higher education in this State. **Section 9** also provides that the rate of interest paid to the State on the deposit is not to be more than 2 percentage points below the market rate for such a deposit, and that the loan rate of interest is to be equal to the rate of interest paid to the State on the deposit. **Section 9** further requires the lending institution to sign an agreement with the State Treasurer specifying the terms of such a deposit and its linked loan.

Section 11 of this bill requires a lending institution that participates in the Linked Deposit Program to apply the institution's standard lending criteria to determine the creditworthiness of an eligible applicant seeking a loan. **Section 11** also limits such loans to an amount not to exceed \$500,000 and to a term of not more than 5 years. **Section 12** of this bill requires that, for loans made to certain eligible entities, a preference be given to certain in-state businesses that ~~are (1) owned by a member of a racial or ethnic minority, a woman or an honorably discharged veteran of the Armed Forces of the United States; or (2) engage in the production and sale of fuel or power derived from renewable energy sources.~~ **Under sections 16.5, 17.5 and 18 of this bill, upon a determination by the Attorney General that a preference for the granting of linked deposit loans for certain businesses which are at least 51-percent owned by a woman or a member of a racial or ethnic minority is constitutional and the issuance of a proclamation by the Governor to that effect, a preference must be given to certain in-state businesses which are at least 51-percent owned by a member of a racial or ethnic minority, a woman or a person who is a veteran discharged from the Armed Forces of the United States under other than dishonorable conditions.** **Section 13** of this bill authorizes certain out-of-state businesses to apply for such a loan if they provide **certain information, including, without limitation, proof of their intent to open a facility or office in this State, and proof that 60 percent of the persons they intend to employ at that facility or office hold a valid Nevada driver's license or identification card.** ~~Sections 12, 13 and 16.5~~ also limit the types of businesses that are eligible to participate in the Linked Deposit Program and require eligible businesses to use the proceeds from the

loan for certain purposes. **Sections 14 and 15** of this bill authorize political subdivisions of this State and institutions of higher education in this State to obtain a loan under the Program and to use the proceeds for certain purposes.

Section 17 of this bill prohibits the State Treasurer from making any new investments through the Linked Deposit Program after June 30, ~~2013~~, **2015**.

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 16, inclusive, of this act.

Sec. 2. *The Legislature hereby declares that the public policy of this State is to benefit the general welfare of the people of this State by improving the state economy through the encouragement of lending at reduced rates of interest to minority-owned and certain other small businesses, political subdivisions of this State and institutions of higher education in this State.*

Sec. 3. *As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Eligible entity" means:*

- 1. A business that meets the requirements of section 12 or 13 of this act;*
- 2. A political subdivision of this State that meets the requirements of section 14 of this act; or*
- 3. An institution of higher education in this State that meets the requirements of section 15 of this act.*

Sec. 5. *"Linked deposit" means a certificate of deposit issued pursuant to section 9 of this act to the State Treasurer by a qualified lending institution.*

Sec. 6. *"Linked Deposit Program" means the loan program established pursuant to section 9 of this act.*

Sec. 7. ~~*"Loan package" or "linked deposit loan package" means the information submitted by a qualified lending institution to the State Treasurer pursuant to section 11 of this act.*~~ **(Deleted by amendment.)**

Sec. 8. *"Qualified lending institution" means a commercial bank, an insured savings and loan association or an insured credit union in this State that meets the eligibility requirements of section 10 of this act.*

Sec. 9. 1. *The State Treasurer shall establish the Linked Deposit Program to increase the availability of loans at a reduced rate of interest to eligible entities.*

2. *The State Treasurer may invest in certificates of deposit at a reduced rate of interest with qualified lending institutions upon ~~acceptance of a loan package~~, receipt of the form required pursuant to subsection 2 of section 11 of this act. Each certificate of deposit issued pursuant to this section by a qualified lending institution to the State Treasurer must be*

linked to a loan at a reduced rate of interest made by the qualified lending institution to an eligible entity.

3. The total amount invested in linked deposits by the State Treasurer at any one time may not exceed, in the aggregate, \$20,000,000.

~~*4. The State Treasurer may accept or reject a linked deposit loan package.*~~

~~*5. Upon acceptance of a linked deposit loan package, receipt of the form required pursuant to subsection 2 of section 11 of this act:*~~

(a) The State Treasurer may place a linked deposit with the lending institution at a rate of interest that is not more than 2 percentage points below the market rate for such a deposit at that lending institution. The State Treasurer shall determine and calculate all linked deposit rates of interest.

(b) The qualified lending institution shall enter into a deposit agreement with the State Treasurer, which must include, without limitation, terms that specify:

(1) The rate of interest to be paid on the deposit;

(2) The rate of interest to be charged for the loan linked to the deposit;

(3) That the qualified lending institution shall:

(I) Loan an amount equal to the amount of the deposit placed by the State Treasurer pursuant to paragraph (a) to an eligible entity at a rate of interest that is reduced from the current market rate for such a loan in the same amount as the reduction in rate of interest received by the State Treasurer for the linked deposit;

(II) Verify that the entity is eligible for such a loan pursuant to the applicable provisions of section 12, 13, 14 or 15 of this act;

(III) Collect and provide the State Treasurer with any information that is requested by the State Treasurer pertaining to the loan and the eligible entity; and

(IV) Immediately notify the State Treasurer if the eligible entity becomes ineligible for the Linked Deposit Program during the term of the loan;

(4) That the rate of interest to be paid on the deposit placed by the State Treasurer pursuant to paragraph (a) will revert to the current market rate at the time the eligible entity becomes ineligible for the Linked Deposit Program; and

(5) Any other requirements that are necessary to carry out the Linked Deposit Program.

~~*6. 5. The State Treasurer shall compile and maintain:*~~

(a) Prepare a report highlighting the benefits of the Linked Deposit Program;

(b) Make the report prepared pursuant to paragraph (a) available on the Internet website of the State Treasurer ~~*for a list of eligible entities that have*~~

~~received loans pursuant to the Linked Deposit Program. The list must include, without limitation, for each eligible entity listed:~~

- ~~(a) The name of the eligible entity;~~
- ~~(b) The type of eligible entity;~~
- ~~(c) The location of the eligible entity;~~
- ~~(d) The amount and term of the loan; and~~
- ~~(e) The name and location of the qualified lending institution that made the loan; and~~

(c) Provide to the Legislature a copy of the report prepared pursuant to paragraph (a).

Sec. 10. To qualify for participation in the Linked Deposit Program, a lending institution must:

1. Be a commercial bank organized under chapter 659 of NRS, an insured savings and loan association organized under chapter 673 of NRS or an insured credit union organized under chapter 678 of NRS;

2. Agree to advertise actively to and inform potentially eligible entities of the availability of loans at a reduced rate of interest through the Linked Deposit Program;

3. ~~[Make information about the Linked Deposit Program available to the public on the Internet website of the lending institution, if any; and~~

~~4. Apply for qualification to offer loans pursuant to the Linked Deposit Program on a form provided by the State Treasurer; and~~

4. Agree to gather and provide to the State Treasurer the following information for each person who submits an application to the lending institution for a loan pursuant to the Linked Deposit Program:

(a) Whether the lending institution approved the application for the loan;

(b) If the applicant for the loan is a natural person, the race, ethnicity and gender of the natural person and whether that person is a veteran of the Armed Forces of the United States who was discharged under other than dishonorable conditions; and

(c) If the applicant for the loan is not a natural person, a political subdivision of this State or an institution of higher education, the race, ethnicity and gender of each natural person with an ownership interest in the applicant and whether a natural person with an ownership interest in the applicant is a veteran of the Armed Forces of the United States who was discharged under other than dishonorable conditions.

Sec. 11. 1. A qualified lending institution that desires to receive a linked deposit must accept and review applications for linked deposit loans from eligible entities on a form provided by the State Treasurer. The lending institution shall apply the standard lending criteria of the lending institution to determine the creditworthiness of each eligible entity, ~~including, without limitation, the consideration of the following factors, if applicable:~~

- ~~(a) The character, reputation and credit history of the applicant;~~

~~(b) The experience and depth of management of the eligible entity;~~
~~(c) The financial strength of the eligible entity;~~
~~(d) The past earnings, projected cash flow and future prospects of the eligible entity;~~
~~(e) The ability of the eligible entity to repay the loan;~~
~~(f) Whether sufficient invested equity exists to operate the eligible entity on a sound financial basis; and~~
~~(g) Whether the eligible entity has potential for long-term financial stability.~~

2. A qualified lending institution must submit ~~for a loan package~~ to the State Treasurer a form provided by the State Treasurer for each loan made pursuant to the Linked Deposit Program. ~~for a form provided by the State Treasurer.~~ The ~~loan package~~ form must include, without limitation, verification by the qualified lending institution that the eligible entity meets the requirements of this section and the applicable provisions of section 12, 13, 14 or 15 of this act, and that the use of the proceeds as specified in the loan meets the applicable requirements of section 12, 13, 14 or 15 of this act.

3. A loan made pursuant to the Linked Deposit Program must not:

- (a) Exceed \$500,000; or
- (b) Have a term of more than 5 years.

Sec. 12. Except as otherwise provided in section 13 of this act:

1. To be eligible for a loan pursuant to the Linked Deposit Program, a business must:

- (a) Employ not more than 100 employees;
- (b) Be headquartered in this State;
- (c) Maintain offices or operating facilities in this State;
- (d) Transact business in this State;
- (e) Be organized for profit;
- (f) Satisfy the standard lending criteria of the qualified lending institution;
- (g) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and

(h) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.

2. In determining which eligible business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal, ~~to~~

~~(a) First, to a business that is at least 51 percent owned by a resident of this State who is:~~

- ~~(1) A member of a racial or ethnic minority;~~
- ~~(2) A woman; or~~
- ~~(3) An honorably discharged veteran of the Armed Forces of the United States.~~

~~(b) Second,~~ to a business engaged in the production and sale of fuel or power derived from renewable energy as defined by NRS 701.070.

3. An eligible business shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:

- (a) Working capital;
- (b) Acquiring real property;
- (c) Establishing a line of credit;
- (d) Financing of accounts receivable;
- (e) Purchasing equipment, other than equipment that would substantially replace the work function of employees and result in a reduction of the employee workforce; and
- (f) Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act.

4. The following types of businesses are not eligible for a loan pursuant to the Linked Deposit Program:

- (a) A nonprofit business;
- (b) A financial business primarily engaged in the business of lending, including, without limitation, a bank, finance company or pawnbroker;
- (c) A speculative real estate development company;
- (d) A subsidiary of a business located in a foreign country;
- (e) A business that previously has defaulted on a loan received pursuant to the Linked Deposit Program or federally assisted financing; and
- (f) A business that engages in any illegal activity.

Sec. 13. 1. To be eligible for a loan pursuant to the Linked Deposit Program, an out-of-state business must:

- (a) Employ not more than 100 employees;
- (b) Be organized for profit;
- (c) Satisfy the standard lending criteria of the qualified lending institution;
- (d) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer;
- (e) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution;
- (f) Provide proof satisfactory to the State Treasurer that the business intends to open a facility or office in this State within 180 days after receiving a linked deposit loan; ~~and~~
- (g) Provide proof satisfactory to the State Treasurer that the business intends to employ at the facility or office located in this State at least 10 full-time employees ~~+~~; and
- (h) Provide proof satisfactory to the State Treasurer that at least 60 percent of the persons that the business intends to employ at the facility or office located in this State hold a valid driver's license or identification card issued by the Department of Motor Vehicles.

2. An eligible out-of-state business shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:

- (a) *Working capital;*
- (b) *Acquiring real property;*
- (c) *Establishing a line of credit;*
- (d) *Financing of accounts receivable;*
- (e) *Opening a facility or office in this State;*
- (f) *Purchasing equipment, other than equipment that would substantially replace the work function of employees and result in a reduction of the employee workforce; and*
- (g) *Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act.*

3. *The following types of out-of-state businesses are not eligible for a loan pursuant to the Linked Deposit Program:*

- (a) *A nonprofit business;*
- (b) *A financial business primarily engaged in the business of lending, including, without limitation, a bank, finance company or pawnbroker;*
- (c) *A speculative real estate development company;*
- (d) *A subsidiary of a business located in a foreign country;*
- (e) *A business that previously has defaulted on a loan received pursuant to the Linked Deposit Program or federally assisted financing; and*
- (f) *A business that engages in any illegal activity.*

Sec. 14. 1. *To be eligible for a loan pursuant to the Linked Deposit Program, a political subdivision of this State must:*

- (a) *Satisfy the standard lending criteria of the qualified lending institution;*
- (b) *Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and*
- (c) *Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.*

2. *An eligible political subdivision of this State:*

(a) *Shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:*

- (1) *Financing capital improvements;*
- (2) *Capital outlay; and*
- (3) *Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act; and*
- (b) *Shall not use the proceeds from a loan received pursuant to the Linked Deposit Program to meet operating expenses.*

Sec. 15. 1. *To be eligible for a loan pursuant to the Linked Deposit Program, an institution of higher education, as defined by NRS 385.102, must:*

- (a) *Satisfy the standard lending criteria of the qualified lending institution;*

(b) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and

(c) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.

2. An eligible institution of higher education:

(a) Shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:

(1) Financing capital improvements; and

(2) Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act; and

(b) Shall not use the proceeds from a loan received pursuant to the Linked Deposit Program to meet operating expenses.

Sec. 16. *The State Treasurer shall adopt regulations necessary to carry out the provisions of sections 2 to 16, inclusive, of this act.*

Sec. 16.5. **Section 12 of this act is hereby amended to read as follows:**

Sec. 12. Except as otherwise provided in section 13 of this act:

1. To be eligible for a loan pursuant to the Linked Deposit Program, a business must:

(a) Employ not more than 100 employees;

(b) Be headquartered in this State;

(c) Maintain offices or operating facilities in this State;

(d) Transact business in this State;

(e) Be organized for profit;

(f) Satisfy the standard lending criteria of the qualified lending institution;

(g) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and

(h) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.

2. In determining which eligible business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal ~~to~~:

(a) First, to a business which is at least 51-percent owned by a resident of this State who is:

(1) A member of a racial or ethnic minority;

(2) A woman; or

(3) A veteran of the Armed Forces of the United States who was discharged under other than dishonorable conditions.

(b) Second, to a business engaged in the production and sale of fuel or power derived from renewable energy as defined by NRS 701.070.

3. An eligible business shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:

- (a) Working capital;
- (b) Acquiring real property;
- (c) Establishing a line of credit;
- (d) Financing of accounts receivable;
- (e) Purchasing equipment, other than equipment that would substantially replace the work function of employees and result in a reduction of the employee workforce; and
- (f) Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act.

4. The following types of businesses are not eligible for a loan pursuant to the Linked Deposit Program:

- (a) A nonprofit business;
- (b) A financial business primarily engaged in the business of lending, including, without limitation, a bank, finance company or pawnbroker;
- (c) A speculative real estate development company;
- (d) A subsidiary of a business located in a foreign country;
- (e) A business that previously has defaulted on a loan received pursuant to the Linked Deposit Program or federally assisted financing; and
- (f) A business that engages in any illegal activity.

Sec. 17. ~~11.1~~ Notwithstanding the provisions of section 9 of this act, the State Treasurer shall not accept a ~~linked deposit loan package~~ **form for a loan from the Linked Deposit Program established pursuant to section 9 of this act** or invest in a certificate of deposit at a reduced rate of interest after June 30, ~~2013~~ **2015**.

~~1.2. As used in this section, "linked deposit loan package" has the meaning ascribed to it in section 7 of this act.~~

Sec. 17.5. 1. At the end of each quarter, a qualified lending institution shall provide to the State Treasurer the information gathered by the qualified lending institution pursuant to subsection 4 of section 10 of this act.

2. The State Treasurer shall compile the information provided pursuant to subsection 1 and provide the information to the Attorney General.

3. The Attorney General shall use the information provided pursuant to subsection 2 to determine whether providing a preference for the receipt of a loan pursuant to the Linked Deposit Program established pursuant to section 9 of this act to a business which is at least 51-percent owned by a woman or a member of a racial or ethnic minority is consistent with the requirements of the Nevada Constitution and the United States Constitution.

4. If the Attorney General determines that providing a preference for the receipt of a loan pursuant to the Linked Deposit Program to a business which is at least 51-percent owned by a woman or a member of

a racial or ethnic minority is consistent with the requirements of the Nevada Constitution and the United States Constitution, the Attorney General must notify the Governor in writing of that determination.

5. Upon receipt of the determination of the Attorney General pursuant to subsection 4, the Governor shall issue a proclamation to that effect.

6. As used in this section, "qualified lending institution" has the meaning ascribed to it in section 8 of this act.

Sec. 18. 1. This ~~act becomes~~ section and sections 1 to 16, inclusive, 17 and 17.5 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

2. Section 16.5 of this act becomes effective upon a proclamation by the Governor pursuant to subsection 5 of section 17.5 of this act.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Senator Denis requested that his remarks be entered in the Journal.

Amendment No. 307 to Senate Bill No. 64 provides that special consideration will be provided to businesses that are at least 51 percent owned and operated by a minority, a woman, or a United States military veteran, only in the event that the Attorney General makes a determination that the preferences are constitutional and the Governor makes a proclamation to that effect.

The amendment changes the ending date for the linked deposit program to June 30, 2015. It also specifies that in order for a business that is relocating to Nevada to qualify for a loan under the program, at least 60 percent of the employees will be Nevada residents.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 66.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 119.

"SUMMARY—Revises provisions relating to multidisciplinary teams to review the deaths of victims of crimes that constitute domestic violence. (BDR 18-268)"

"AN ACT relating to domestic violence; authorizing the Attorney General to organize or sponsor multidisciplinary teams to review the death of the victim of a crime that constitutes domestic violence under certain circumstances; revising provisions concerning such teams organized or sponsored by a court or an agency of local government; **imposing a civil penalty upon members of such teams who disclose confidential information concerning the death of a child;** authorizing all such teams to receive data and information from certain reports and investigations and to use certain death certificates; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, certain unlawful acts constitute domestic violence when committed against certain specified persons. (NRS 33.018) Existing law authorizes a court or an agency of a local government to organize or sponsor one or more multidisciplinary teams to review the death of the victim of a crime that constitutes domestic violence. (NRS 217.475) If a court or an agency of a local government does not organize or sponsor such a team or if the court or agency requests the assistance of the Attorney General, **section 1** of this bill authorizes the Attorney General to organize or sponsor one or more multidisciplinary teams to review the death of the victim of such a crime. **Section 1** also establishes the powers and duties of such teams.

Section 2 of this bill expands the authority of a multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by a court or agency of local government under existing law to: (1) obtain relevant information and records concerning the victim and any person who was in contact with the victim; and (2) meet with other teams, persons, agencies and organizations that may have information relevant to the team's review.

Sections 1 and 2 also provide that each member of a multidisciplinary team which is organized or sponsored by the Attorney General or a court or an agency of a local government to review the death of a victim of a crime that constitutes domestic violence who discloses any confidential information concerning the death of a child is liable for a civil penalty of not more than \$500. The Attorney General may bring an action to recover such a civil penalty and shall deposit any money received from the civil penalty with the State Treasurer for credit to the State General Fund.

Section 3 of this bill adds multidisciplinary teams organized to review the deaths of victims of crimes that constitute domestic violence to the list of entities that are authorized under existing law to receive data or information from certain reports and investigations concerning the abuse or neglect of children. Under existing law, release to the public of information identifying the suspect of such a report by a person who is authorized to have access to the information is a misdemeanor. (NRS 432B.290)

Section 3.5 of this bill specifies that a multidisciplinary team to review the death of a child may, if appropriate, meet and share information with a multidisciplinary team to review the death of a victim of a crime that constitutes domestic violence which is organized or sponsored by the Attorney General or a court or an agency of a local government.

Section 4 of this bill requires the State Board of Health to allow a multidisciplinary team organized to review the death of the victim of a crime that constitutes domestic violence to use death certificates in the custody of the State Registrar of Vital Statistics in the same manner as the Board allows a multidisciplinary team to review the death of a child under existing law.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Attorney General may organize or sponsor one or more multidisciplinary teams to review the death of the victim of a crime that constitutes domestic violence pursuant to NRS 33.018 if a court or an agency of a local government does not organize or sponsor a multidisciplinary team pursuant to NRS 217.475 or if the court or agency requests the assistance of the Attorney General. In addition to the review of a particular case, a multidisciplinary team organized or sponsored by the Attorney General pursuant to this section shall:

(a) Examine the trends and patterns of deaths of victims of crimes that constitute domestic violence in this State;

(b) Determine the number and type of incidents the team wishes to review;

(c) Make policy and other recommendations for the prevention of deaths from crimes that constitute domestic violence;

(d) Engage in activities to educate the public, providers of services to victims of domestic violence and policymakers concerning deaths from crimes that constitute domestic violence and strategies for intervention and prevention of such crimes; and

(e) Recommend policies, practices and services to encourage collaboration and reduce the number of deaths from crimes that constitute domestic violence.

2. A multidisciplinary team organized or sponsored pursuant to this section may include, without limitation, the following members:

(a) A representative of the Attorney General;

(b) A representative of any law enforcement agency that is involved with a case under review;

(c) A representative of the district attorney's office in the county where a case is under review;

(d) A representative of the coroner's office in the county where a case is under review;

(e) A representative of any agency which provides social services that is involved in a case under review;

(f) A person appointed pursuant to subsection 3; and

(g) Any other person that the Attorney General determines is appropriate.

3. An organization that is concerned with domestic violence may apply to the Attorney General or his or her designee for authorization to appoint a member to a multidisciplinary team organized or sponsored pursuant to this section. Such an application must be made in the form and manner prescribed by the Attorney General and is subject to the approval of the Attorney General or his or her designee.

4. *Each organization represented on a multidisciplinary team organized or sponsored pursuant to this section may share with other members of the team information in its possession concerning a victim who is the subject of a review or any person who was in contact with the victim and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential.*

5. *The organizing or sponsoring of a multidisciplinary team pursuant to this section does not grant the Attorney General supervisory authority over, or restrict or impair the statutory authority of, any state or local governmental agency responsible for the investigation or prosecution of the death of a victim of a crime that constitutes domestic violence pursuant to NRS 33.018.*

6. *Before organizing or sponsoring a multidisciplinary team pursuant to this section, the Attorney General shall adopt a written protocol describing the objectives and structure of the team.*

7. *A multidisciplinary team organized or sponsored pursuant to this section may request any person, agency or organization that is in possession of information or records concerning a victim who is the subject of a review or any person who was in contact with the victim to provide the team with any information or records that are relevant to the review. Any information or records provided to a team pursuant to this subsection are confidential.*

8. *A multidisciplinary team organized or sponsored pursuant to this section may, if appropriate, meet with any person, agency or organization that the team believes may have information relevant to a review conducted by the team, including, without limitation, a multidisciplinary team:*

(a) *To review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to NRS 217.475;*

(b) *To review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be from abuse, neglect or isolation organized pursuant to NRS 228.270;*

(c) *To review the death of a child organized pursuant to NRS 432B.405;*
or

(d) *To oversee the review of the death of a child organized pursuant to NRS 432B.4075.*

9. ~~Each~~ Except as otherwise provided in subsection 10, each member of a multidisciplinary team organized or sponsored pursuant to this section is immune from civil or criminal liability for an activity related to the review of the death of a victim.

10. Each member of a multidisciplinary team organized or sponsored pursuant to this section who discloses any confidential information concerning the death of a child is personally liable for a civil penalty of not more than \$500.

11. The Attorney General:

(a) May bring an action to recover a civil penalty imposed pursuant to subsection 10 against a member of a multidisciplinary team organized or sponsored pursuant to this section; and

(b) Shall deposit any money received from the civil penalty with the State Treasurer for credit to the State General Fund.

12. The results of a review of the death of a victim conducted pursuant to this section are not admissible in any civil action or proceeding.

~~1111~~ 13. A multidisciplinary team organized or sponsored pursuant to this section shall submit a report of its activities to the Attorney General. The report must include, without limitation, the findings and recommendations of the team. The report must not include information that identifies any person involved in a particular case under review. The Attorney General shall make the report available to the public.

Sec. 2. NRS 217.475 is hereby amended to read as follows:

217.475 1. A court or an agency of a local government may organize or sponsor one or more multidisciplinary teams to review the death of the victim of a crime that constitutes domestic violence pursuant to NRS 33.018.

2. If a multidisciplinary team is organized or sponsored pursuant to subsection 1, the court or agency shall review the death of a victim upon receiving a written request from a person related to the victim within the third degree of consanguinity, if the request is received by the court or agency within 1 year after the date of death of the victim.

3. Members of a team that is organized or sponsored pursuant to subsection 1 serve at the pleasure of the court or agency that organizes or sponsors the team and must include, without limitation, representatives of organizations concerned with law enforcement, issues related to physical or mental health, or the prevention of domestic violence and assistance to victims of domestic violence.

4. Each organization represented on such a team may share with other members of the team information in its possession concerning the victim who is the subject of the review or any person who was in contact with the victim and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential.

5. A team organized *or sponsored* pursuant to this section may, upon request, provide a report concerning its review to a person related to the victim within the third degree of consanguinity.

6. Before establishing a team to review the death of a victim pursuant to this section, a court or an agency shall adopt a written protocol describing its objectives and the structure of the team.

7. *A team organized or sponsored pursuant to this section may request any person, agency or organization that is in possession of information or records concerning the victim who is the subject of the review or any person who was in contact with the victim to provide the team with any information or records that are relevant to the team's review. Any*

information or records provided to a team pursuant to this subsection are confidential.

8. A team organized *or sponsored* pursuant to this section may, if appropriate, meet with *any person, agency or organization that the team believes may have information relevant to the review conducted by the team, including, without limitation,* a multidisciplinary team ~~to~~ :

(a) *To review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to section 1 of this act;*

(b) *To review the death of a child organized pursuant to NRS 432B.405* ~~to~~ ; ~~and~~ *or*

(c) *To oversee the review of the death of a child organized pursuant to NRS 432B.4075.*

~~§8-1~~ 9. ~~Each~~ Except as otherwise provided in subsection 10, each member of a team organized *or sponsored* pursuant to this section is immune from civil or criminal liability for an activity related to the review of the death of a victim.

~~§9-1~~ 10. Each member of a team organized or sponsored pursuant to this section who discloses any confidential information concerning the death of a child is personally liable for a civil penalty of not more than \$500.

11. The Attorney General:

(a) May bring an action to recover a civil penalty imposed pursuant to subsection 10 against a member of a team organized or sponsored pursuant to this section; and

(b) Shall deposit any money received from the civil penalty with the State Treasurer for credit to the State General Fund.

12. The results of the review of the death of a victim pursuant to this section are not admissible in any civil action or proceeding.

Sec. 3. NRS 432B.290 is hereby amended to read as follows:

432B.290 1. Except as otherwise provided in subsections 2 and 3 and NRS 432B.165, 432B.175 and 432B.513, data or information concerning reports and investigations thereof made pursuant to this chapter may be made available only to:

(a) A physician, if the physician has before him or her a child who the physician has reasonable cause to believe has been abused or neglected;

(b) A person authorized to place a child in protective custody, if the person has before him or her a child who the person has reasonable cause to believe has been abused or neglected and the person requires the information to determine whether to place the child in protective custody;

(c) An agency, including, without limitation, an agency in another jurisdiction, responsible for or authorized to undertake the care, treatment or supervision of:

(1) The child; or

(2) The person responsible for the welfare of the child;

(d) A district attorney or other law enforcement officer who requires the information in connection with an investigation or prosecution of the abuse or neglect of a child;

(e) A court, for in camera inspection only, unless the court determines that public disclosure of the information is necessary for the determination of an issue before it;

(f) A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to the person;

(g) The attorney and the guardian ad litem of the child;

(h) A grand jury upon its determination that access to these records is necessary in the conduct of its official business;

(i) A federal, state or local governmental entity, or an agency of such an entity, that needs access to the information to carry out its legal responsibilities to protect children from abuse and neglect;

(j) A person or an organization that has entered into a written agreement with an agency which provides child welfare services to provide assessments or services and that has been trained to make such assessments or provide such services;

(k) A team organized pursuant to NRS 432B.350 for the protection of a child;

(l) A team organized pursuant to NRS 432B.405 to review the death of a child;

(m) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential;

(n) The persons who are the subject of a report;

(o) An agency that is authorized by law to license foster homes or facilities for children or to investigate persons applying for approval to adopt a child, if the agency has before it an application for that license or is investigating an applicant to adopt a child;

(p) Upon written consent of the parent, any officer of this State or a city or county thereof or Legislator authorized, by the agency or department having jurisdiction or by the Legislature, acting within its jurisdiction, to investigate the activities or programs of an agency which provides child welfare services if:

(1) The identity of the person making the report is kept confidential; and

(2) The officer, Legislator or a member of the family of the officer or Legislator is not the person alleged to have committed the abuse or neglect;

(q) The Division of Parole and Probation of the Department of Public Safety for use pursuant to NRS 176.135 in making a presentence investigation and report to the district court or pursuant to NRS 176.151 in making a general investigation and report;

(r) Any person who is required pursuant to NRS 432B.220 to make a report to an agency which provides child welfare services or to a law enforcement agency;

(s) The Rural Advisory Board to Expedite Proceedings for the Placement of Children created pursuant to NRS 432B.602 or a local advisory board to expedite proceedings for the placement of children created pursuant to NRS 432B.604;

(t) The panel established pursuant to NRS 432B.396 to evaluate agencies which provide child welfare services; ~~for~~

(u) An employer in accordance with subsection 3 of NRS 432.100 ~~for~~; or

(v) ***A team organized or sponsored pursuant to NRS 217.475 or section 1 of this act to review the death of the victim of a crime that constitutes domestic violence.***

2. An agency investigating a report of the abuse or neglect of a child shall, upon request, provide to a person named in the report as allegedly causing the abuse or neglect of the child:

(a) A copy of:

(1) Any statement made in writing to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(2) Any recording made by the agency of any statement made orally to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(b) A written summary of the allegations made against the person who is named in the report as allegedly causing the abuse or neglect of the child. The summary must not identify the person responsible for reporting the alleged abuse or neglect.

3. An agency which provides child welfare services shall disclose the identity of a person who makes a report or otherwise initiates an investigation pursuant to this chapter if a court, after reviewing the record in camera and determining that there is reason to believe that the person knowingly made a false report, orders the disclosure.

4. Any person, except for:

(a) The subject of a report;

(b) A district attorney or other law enforcement officer initiating legal proceedings; or

(c) An employee of the Division of Parole and Probation of the Department of Public Safety making a presentence investigation and report to the district court pursuant to NRS 176.135 or making a general investigation and report pursuant to NRS 176.151,

↪ who is given access, pursuant to subsection 1, to information identifying the subjects of a report and who makes this information public is guilty of a misdemeanor.

5. The Division of Child and Family Services shall adopt regulations to carry out the provisions of this section.

Sec. 3.5. NRS 432B.407 is hereby amended to read as follows:

432B.407 1. A multidisciplinary team to review the death of a child is entitled to access to:

- (a) All investigative information of law enforcement agencies regarding the death;
- (b) Any autopsy and coroner's investigative records relating to the death;
- (c) Any medical or mental health records of the child; and
- (d) Any records of social and rehabilitative services or of any other social service agency which has provided services to the child or the child's family.

2. Each organization represented on a multidisciplinary team to review the death of a child shall share with other members of the team information in its possession concerning the child who is the subject of the review, any siblings of the child, any person who was responsible for the welfare of the child and any other information deemed by the organization to be pertinent to the review.

3. *A multidisciplinary team to review the death of a child may, if appropriate, meet and share information with a multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to NRS 217.475 or section 1 of this act.*

4. A multidisciplinary team to review the death of a child may petition the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the team. Except as otherwise provided in NRS 239.0115, any books, records or papers received by the team pursuant to the subpoena shall be deemed confidential and privileged and not subject to disclosure.

~~4. Information~~

5. *Except as otherwise provided in this section, information* acquired by, and the records of, a multidisciplinary team to review the death of a child are confidential, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding.

Sec. 4. NRS 440.170 is hereby amended to read as follows:

440.170 1. All certificates in the custody of the State Registrar are open to inspection subject to the provisions of this chapter. It is unlawful for any employee of the State to disclose data contained in vital statistics, except as authorized by this chapter or by the Board.

2. Information in vital statistics indicating that a birth occurred out of wedlock must not be disclosed except upon order of a court of competent jurisdiction.

3. The Board:

- (a) Shall allow the use of data contained in vital statistics to carry out the provisions of NRS 442.300 to 442.330, inclusive;
- (b) Shall allow the use of certificates of death by a multidisciplinary team

~~to~~ :

(1) To review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to NRS 217.475 or section 1 of this act; and

(2) To review the death of a child established pursuant to NRS 432B.405 and 432B.406; and

(c) May allow the use of data contained in vital statistics for other research purposes, but without identifying the persons to whom the records relate.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 119 imposes a civil penalty up to \$500 on any member of a Domestic Violence Fatality team who discloses confidential information concerning the death of a victim. The penalty is the same as the existing penalty already imposed on the member of a Child Fatality team for the disclosure of similar information.

The amendment also clarifies the authority for Child Fatality teams to work with Domestic Fatality teams on cases that may overlap.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 200.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 162.

"SUMMARY—Makes various changes relating to time shares. (BDR 10-217)"

"AN ACT relating to time shares; restricting the disclosure of certain information about owners of time shares; requiring certain mailings to owners of time shares upon request by an owner; allowing a notice of sale on the foreclosure of a time share to be given by posting on an Internet website under certain circumstances; 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; ~~and~~ (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** of this bill authorizes, as an alternative to ~~that the newspaper~~ form of publication, such a notice of sale **and a declaration in a form to be prepared by the Real Estate Division of the Department of Business and Industry** to be posted on an Internet website if a statement of the Internet address is also published in a newspaper.

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 5** 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.

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 ~~supersede~~ :

(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. 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 ~~that~~ :

(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 ~~that~~ ; 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 in 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; and*

(3) *The name and street address of the property in which the time share is located.*

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.

~~that~~ 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. 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 ~~††~~ *or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement pursuant to the provisions of 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 lien holder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 8 and for reasonable attorney's fees and the costs of bringing the action.

10. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) A fee of \$50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

➡ The fees collected pursuant to this subsection must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account as prescribed pursuant to this subsection. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in this subsection.

11. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 10.

12. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":

(a) Means a structure that is comprised of not more than four units.

(b) Does not include any time share or other property regulated under chapter 119A of NRS.

Senator Copenig moved the adoption of the amendment.

Remarks by Senator Copenig.

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

Amendment No. 162 to Senate Bill No. 200 requires the manager or an association of a time share plan to provide a unit owner with;

A) The option of limiting information that may be provided to other owners, and;

B) A written disclosure about the potential effect of providing personal information to others.

As an alternative to publication of a foreclosure sale in the newspaper. The amendment also allows for the use of a declaration form provided by the Real Estate Division.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 201.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 232.

~~"SUMMARY—[Revises provisions relating to correctional institutions.]~~

Authorizes the Attorney General to establish a program to mediate complaints by offenders. (BDR 16-827)"

"AN ACT relating to correctional institutions; ~~[establishing an Ombudsman for Offenders to receive and process]~~ **authorizing the Attorney General to establish a program to mediate** complaints by offenders; ~~and certain other persons; establishing the powers and duties of the Ombudsman; requiring the Ombudsman to adopt regulations relating to the processing of such complaints; requiring the Ombudsman to make certain reports to the Department of Corrections, the Legislature and the Advisory Commission on the Administration of Justice; requiring the Director of the Department to adopt regulations which comply with certain standards;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 7 of this bill creates the Office of the Ombudsman for Offenders within the Office of the Attorney General.~~

~~Section 8 of this bill grants the Attorney General the power to appoint and remove the Ombudsman for Offenders.~~

~~Section 9 of this bill sets forth the powers of the Ombudsman.~~

~~Sections 10 and 11 of this bill specify the accounting and use of money collected by the Ombudsman.~~

~~Section 12 of this bill directs the Ombudsman.]~~ **This bill authorizes the Attorney General** to establish ~~[regulations governing the receipt, processing and reporting of]~~ **a program to mediate** complaints from ~~[Legislators,]~~ offenders, ~~and family members of offenders and from the Ombudsman.~~

~~Sections 13 and 17 of this bill specify the responsibilities of the Ombudsman concerning the processing and reporting of complaints and actions taken in response to the complaints.~~

~~Section 14 of this bill requires the Ombudsman to notify certain persons of the Ombudsman's decision regarding the processing of a complaint.~~

~~Section 15 of this bill makes confidential certain information relating to complaints, reports and recommendations.~~

~~Section 16 of this bill requires the Ombudsman to prepare and submit a biennial report for the Department of Corrections, the Legislature and the Advisory Commission on the Administration of Justice.~~

~~Section 18 of this bill prohibits the penalizing of an offender for certain acts relating to complaints and prohibits the hindrance of the Ombudsman in performing the duties of office.~~

~~Section 19 of this bill provides that the authority of the Ombudsman is not exclusive of other available remedies.~~

~~Existing law requires the Director of the Department to protect the health and safety of the staff and offenders in the institutions and facilities of the Department. (NRS 209.131) Section 20 of this bill requires the Director to establish regulations which comply with the standards set by the National Commission on Correctional Health Care to govern staff training in medical emergency response and reporting.~~

~~Existing law also requires the Director to establish standards for the personal hygiene of offenders and for the medical and dental services at correctional institutions and facilities. (NRS 209.381) Section 21 of this bill requires those standards to comply with standards set by the National Commission on Correctional Health Care.~~

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

Section 1. ~~{Chapter 209 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.}~~ **(Deleted by amendment.)**

Sec. 2. ~~{As used in sections 2 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.}~~ **(Deleted by amendment.)**

Sec. 3. ~~{“Administrative act” includes an action, omission, decision, recommendation, practice or other procedure of the Department.}~~ **(Deleted by amendment.)**

Sec. 4. ~~{“Complainant” means a Legislator, an offender or a family member of an offender who files a complaint as described in section 12 of this act.}~~ **(Deleted by amendment.)**

Sec. 5. ~~{“Official” means the Director, a deputy director, manager, warden or employee of the Department.}~~ **(Deleted by amendment.)**

Sec. 6. ~~{“Ombudsman” means the Ombudsman for Offenders.}~~ **(Deleted by amendment.)**

Sec. 7. ~~{The Office of the Ombudsman for Offenders is hereby created within the Office of the Attorney General.}~~ **(Deleted by amendment.)**

Sec. 8. ~~{1. The Attorney General shall appoint the Ombudsman. The Ombudsman is in the unclassified service of the State. The person appointed:
(a) Must be knowledgeable in the field of corrections; and
(b) Must be independent of the Department.~~

~~2. The Attorney General may remove the Ombudsman from office for inefficiency, neglect of duty or malfeasance in office.] (Deleted by amendment.)~~

Sec. 9. ~~[The Ombudsman may:~~

~~1. Employ such staff as is necessary to carry out the duties and functions of his or her office, in accordance with the personnel practices and procedures established within the Attorney General's Office. The Ombudsman has sole discretion to employ and remove any member of his or her staff.~~

~~2. Purchase necessary equipment.~~

~~3. Lease or make other suitable arrangements for office space, but any lease which extends beyond the term of 1 year must be reviewed and approved by a majority of the members of the State Board of Examiners.~~

~~4. Perform such other functions and make such other arrangements as may be necessary to carry out the duties and functions of his or her office.] (Deleted by amendment.)~~

Sec. 10. ~~[1. All money collected by the Ombudsman must be deposited with the State Treasurer for credit to the Account for the Ombudsman for Offenders, which is hereby created.~~

~~2. Money in the Account may be used:~~

~~(a) To defray the costs of maintaining the Office of the Ombudsman; or
(b) For any other purpose authorized by the Legislature.~~

~~3. All claims against the Account must be paid as other claims against the State are paid.] (Deleted by amendment.)~~

Sec. 11. ~~[All gifts and grants of money which the Ombudsman is authorized to accept must be deposited with the State Treasurer for credit to the Account for the Ombudsman for Offenders.] (Deleted by amendment.)~~

Sec. 12. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The ~~[Ombudsman shall, by regulation,]~~ Attorney General may establish ~~[procedures]~~ a program for ~~[receiving, processing and reporting]~~ mediating complaints from ~~[a Legislator,]~~ an offender ~~[or a family member of an offender and for processing and reporting allegations personally known to the Ombudsman]~~ concerning:

~~1-1~~ (a) An administrative act which is alleged to be contrary to law or a policy of the Department; or

~~1-2~~ (b) Significant issues relating to the health or safety of offenders and other matters for which there is no effective administrative remedy.

2. If the Attorney General establishes a program for mediating complaints pursuant to subsection 1, the Attorney General shall:

(a) By regulation, establish procedures for mediating complaints by offenders; and

(b) Prepare and submit to the Board an annual report on:

(1) The complaints mediated through the program;

(2) The total dollar amount of claims asserted in complaints mediated through the program;

(3) The number of complaints that were resolved through the program;

(4) The cost in dollars paid to offenders to resolve complaints through the program; and

(5) The savings in dollars between the dollar amount of claims asserted in complaints and the cost in dollars paid to offenders to resolve those complaints.

3. As used in this section, "administrative act" includes an action, omission, decision, recommendation, practice or other procedure of the Department.

Sec. 13. ~~[1. The Ombudsman shall advise a complainant to pursue all administrative remedies that are available to the complainant. The Ombudsman may request and shall receive from the Department a progress report concerning the administrative processing of a complaint. After the Department has taken administrative action on a complaint, the Ombudsman may process and report a complaint on the request of a complainant or on his or her own initiative.~~

~~2. The Ombudsman is not required to process or report a complaint brought before the Ombudsman. A person is not entitled as a right to have his or her complaint processed or reported by the Ombudsman.] (Deleted by amendment.)~~

Sec. 14. ~~[After the Ombudsman receives a complaint from a Legislator, an offender or a family member of an offender as described in section 12 of this act and decides to process the complaint, the Ombudsman shall notify the complainant, the offender or offenders affected and the Department. If the Ombudsman declines to process the complaint, the Ombudsman shall notify the complainant in writing and inform the offender or offenders affected of the reasons for the Ombudsman's decision.] (Deleted by amendment.)~~

Sec. 15. ~~[1. Correspondence between the Ombudsman and an offender is confidential and must be processed as privileged correspondence in the same manner as letters between offenders and courts, attorneys or public officials.~~

~~2. The Ombudsman shall keep confidential all matters relating to a complaint and the identities of the complainants or persons from whom information is acquired, except so far as disclosures may be necessary to enable the Ombudsman to perform the duties of the office and to support any recommendations resulting from the processing of a complaint.~~

~~3. A report prepared and recommendations made by the Ombudsman and submitted pursuant to section 16 of this act are exempt from disclosure under chapter 239 of NRS.] (Deleted by amendment.)~~

Sec. 16. ~~[1. For each regular session of the Legislature, the Ombudsman shall prepare a report on:~~

- ~~(a) The conduct of the Office of the Ombudsman for Offenders;~~
- ~~(b) Complaints processed by the Ombudsman; and~~
- ~~(c) Findings resulting from those complaints if the Ombudsman finds:~~
 - ~~(1) A matter that should be considered by the Department;~~
 - ~~(2) An administrative act that should be modified or cancelled;~~
 - ~~(3) A statute or regulation that should be altered;~~
 - ~~(4) An administrative act for which justification is necessary;~~
 - ~~(5) Significant issues relating to the health or safety of offenders; or~~
 - ~~(6) Any other significant concerns as set forth by regulation.~~

~~2. The report must be submitted not later than September 1 of each even-numbered year to the Department and the Director of the Legislative Counsel Bureau for distribution to the Legislature and the Advisory Commission on the Administration of Justice.~~

~~3. Subject to section 17 of this act, the Legislature may forward all or part of a report prepared and submitted pursuant to this section to the complainant or the offender or offenders affected.] (Deleted by amendment.)~~

Sec. 17. ~~[1. Before publishing a finding or recommendation that expressly or by implication criticizes a person or the Department, the Ombudsman must consult with that person or the Department.~~

~~2. When publishing a finding adverse to the Department or any person, the Ombudsman shall include in that publication a statement of reasonable length made to the Ombudsman by the Department or person in defense or mitigation of the action, if that statement is provided within a reasonable period of time as specified by regulation.~~

~~3. The Ombudsman may request to be notified by the Department, within a specified period of time, of any action taken on a recommendation.~~

~~4. The Ombudsman shall notify a complainant of actions relating to the complaint taken by the Office of the Ombudsman and the Department.] (Deleted by amendment.)~~

Sec. 18. ~~[1. An offender must not be penalized in any way by an official or the Department for filing a complaint, complaining to a Legislator or cooperating with the Ombudsman in researching a complaint.~~

~~2. A person or the Department shall not:~~

~~(a) Hinder the lawful actions of the Ombudsman or employees of the Office of the Ombudsman; or~~

~~(b) Willfully refuse to comply with lawful demands of the Office.] (Deleted by amendment.)~~

Sec. 19. ~~[The authority granted the Ombudsman pursuant to sections 2 to 19, inclusive, of this act:~~

~~1. Is in addition to the authority granted under:~~

~~(a) The provisions of any other act or rule under which the remedy or right of appeal or objection is provided for a person; or~~

~~(b) Any procedure provided for the inquiry into or investigation of any other matter.~~

~~2. Shall not be:~~

~~(a) Construed to limit or affect the remedy or right of appeal or objection;~~

~~or~~

~~(b) Deemed part of an exclusionary process.] (Deleted by amendment.)~~

Sec. 20. ~~[NRS 209.131 is hereby amended to read as follows:~~

~~209.131 The Director shall:~~

~~1. Administer the Department under the direction of the Board.~~

~~2. Supervise the administration of all institutions and facilities of the Department.~~

~~3. Receive, retain and release, in accordance with law, offenders sentenced to imprisonment in the state prison.~~

~~4. Be responsible for the supervision, custody, treatment, care, security and discipline of all offenders under his or her jurisdiction.~~

~~5. Ensure that any person employed by the Department whose primary responsibilities are:~~

~~(a) The supervision, custody, security, discipline, safety and transportation of an offender;~~

~~(b) The security and safety of the staff; and~~

~~(c) The security and safety of an institution or facility of the Department, is a correctional officer who has the powers of a peace officer pursuant to subsection 1 of NRS 289.220.~~

~~6. Establish regulations with the approval of the Board and enforce all laws governing the administration of the Department and the custody, care and training of offenders.~~

~~7. Take proper measures to protect the health and safety of the staff and offenders in the institutions and facilities of the Department [], including, without limitation, establishing regulations, with the approval of the Board, which comply with standards set by the National Commission on Correctional Health Care to govern staff training in medical emergency response and reporting.~~

~~8. Cause to be placed from time to time in conspicuous places about each institution and facility copies of laws and regulations relating to visits and correspondence between offenders and others.~~

~~9. Provide for the holding of religious services in the institutions and facilities and make available to the offenders copies of appropriate religious materials.] (Deleted by amendment.)~~

Sec. 21. ~~[NRS 209.381 is hereby amended to read as follows:~~

~~209.381 1. Each offender in an institution or facility of the Department must be provided a healthful diet and appropriate, sanitary housing.~~

~~2. The Director with the approval of the Board shall establish standards which comply with standards set by the National Commission on Correctional Health Care for personal hygiene of offenders and for the medical and dental services of each institution or facility.] (Deleted by amendment.)~~

Senator Copenig moved the adoption of the amendment.

Remarks by Senator Copenig.

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

Amendment No. 232 to Senate Bill No. 201 replaces the original bill that would have created an Ombudsman and instead authorizes the Attorney General to establish a program to mediate certain complaints from offenders. Such complaints are limited to those regarding an administrative act alleged to be contrary to law or policy of the Department of Corrections, or significant issues concerning the health and safety of offenders and other matters for which there is no effective administrative remedy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 218.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 183.

"SUMMARY—Revises provisions governing the regulation of gaming. (BDR 41-991)"

"AN ACT relating to gaming; authorizing the Nevada Gaming Commission to provide by regulation for the operation of hosting centers and service providers; revising provisions relating to the transfer of certain ownership interests in a gaming operation; revising provisions relating to the licensing of persons who hold an ownership interest in certain business entities which hold a gaming license; authorizing the State Gaming Control Board to take certain actions regarding its operations without the approval of the Commission; making various other changes relating to the regulation of gaming; **prohibiting certain actions relating to gaming; providing a penalty;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Nevada Gaming Commission and the State Gaming Control Board are required to administer state gaming licenses and manufacturers', sellers' and distributors' licenses, and to perform various acts relating to the regulation and control of gaming. (NRS 463.140) **Section 2** of this bill authorizes the Commission to provide by regulation for the operation and registration of hosting centers, which will serve as centers for the operation of certain gaming systems. **Section 3** of this bill authorizes the Commission to provide by regulation for the licensing of service providers, who will ~~assist licensed gaming establishments in providing services to the public with regard to the conduct and exposure of certain games.~~ **generally: (1) perform certain services on behalf of another licensed person who conducts nonrestricted gaming operations or an establishment licensed to operate interactive gaming; or (2) provide services or devices which patrons of licensed establishments use to obtain cash or wagering instruments.**

Existing law also provides that if the Commission approves the issuance of a license for gaming operations at the same location, or locations if the

license is for the operation of a slot machine route, for the purposes of certain taxes or fees, the gaming license shall be deemed transferred within 30 days following certain changes in the business entity, and the previously licensed operation shall be deemed a continuing operation. (NRS 463.386) **Section 7** of this bill removes the requirement that certain changes in the business entity must occur before the license may be deemed transferred, and instead provides that if the Commission approves such an issuance of a license, the Chair of the Board, in consultation with the Chair of the Commission, may administratively determine that the gaming license is transferred and the newly licensed operation is a continuing operation.

Additionally, existing law requires every limited partner of a limited partnership and every member of a limited-liability company that holds a state gaming license to be licensed individually. (NRS 463.569, 463.5735) **Sections 8 and 9** of this bill revise this requirement. **Section 8** provides that: (1) only limited partners with more than a 5 percent ownership interest in a limited partnership must be licensed individually; and (2) a limited partner generally must register with the Board if such a limited partner holds a 5 percent or less ownership interest in a limited partnership and holds or applies for a state gaming license. **Section 9** applies such requirements to members of a limited-liability company.

Existing law further provides that it is unlawful for a person at a licensed gaming establishment to use or possess with the intent to use a device to assist in projecting the outcome of a game, keeping track of cards played, analyzing the probability of the occurrence of an event relating to a game or analyzing the strategy for playing or betting to be used in a game. (NRS 465.075) **A person who performs or attempts to perform any such actions is guilty of a category B felony. (NRS 465.088)** **Section 12** of this bill describes in more detail the types of devices that are unlawful, and provides that it is also unlawful to assist another person in using or possessing with the intent to use any such device. **Section 12** also specifies that the use of any such device is only unlawful when such use provides an advantage to a person participating in or operating a game.

Existing law also provides that it is unlawful for a person to perform certain actions relating to gaming without having first procured, and thereafter maintaining, all required gaming licenses. (NRS 463.160) **A person who willfully violates, attempts to violate, or conspires to violate such provisions of law is, with certain exceptions, guilty of a category B felony. (NRS 463.360)** **Section 5.5** of this bill additionally provides that it is unlawful for a person to operate as a cash access and wagering service provider without having procured and maintained all required gaming licenses.

Finally, existing law authorizes the Commission to adopt regulations governing the licensing and operation of interactive gaming and requires that any such regulations include certain provisions. (NRS 463.750) **Section 11.5** of this bill additionally requires that any such regulations

must: (1) establish the investigation fees for a license for a service provider to perform certain actions on behalf of an establishment licensed to operate interactive gaming; (2) provide that a person hold a license for a service provider in order to perform such actions; (3) set forth standards for the suitability of a person to be licensed as a service provider; and (4) set forth provisions governing the licensing requirements for a service provider and certain fees that a service provider may be required to pay.

Section 4 of this bill authorizes the Board to take certain actions without the approval of the Commission with regard to: (1) certain operational activities and functions of the Board; and (2) establishing a plan by regulation concerning certain personnel provisions. Section 5 of this bill requires the Commission to post a notice on its website regarding any meeting at which the adoption, amendment or repeal of a regulation is considered, and section 6 of this bill removes the provision from existing law which requires the Chair of the Board to present a claim to the State Board of Examiners after an expenditure of money from the State Gaming Control Board Revolving Account. Sections 10 and 11 of this bill revise provisions concerning certain documents of a publicly traded corporation that holds a gaming license with which the Commission must be provided a copy under existing law.

~~Section 13 of this bill clarifies existing law and specifies that service charges which are collected and obtained by certain third parties are subject to the tax on live entertainment. This provision applies retroactively from January 1, 2004, the date on which the imposition of the tax on live entertainment became effective.~~ Section 14 of this bill repeals provisions relating to the Account for Investigating Cash Transactions of Gaming Licensees.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5, 2 and 3 of this act.

Sec. 1.5. "Cash access and wagering instrument service provider" means a provider of services or devices for use by patrons of licensed gaming establishments to obtain cash or wagering instruments through a variety of automated methods, including, without limitation:

- 1. Wagering instrument issuance and redemption kiosks; or**
- 2. Money transfers through mobile or Internet services.**

Sec. 2. 1. The Legislature finds that:

(a) To protect and promote the health, safety, morals, good order and general welfare of the inhabitants of this State, and to carry out the public policy declared in NRS 463.0129, it is necessary that the Board and Commission be allowed to react to rapidly evolving technological advances while maintaining strict regulation and control of gaming.

(b) Technological advances have evolved which allow certain parts of games, gaming devices, cashless wagering systems and race book and sports pool operations to be conducted at locations that are not on the premises of a licensed gaming establishment.

2. Except as otherwise provided in subsection 3, the Commission may, with the advice and assistance of the Board, provide by regulation for the operation and registration of hosting centers and persons associated therewith. Such regulations may include:

(a) Provisions relating to the operation and location of hosting centers, including, without limitation, minimum internal and operational control standards established by the Commission.

(b) Provisions relating to the registration of persons owning or operating a hosting center and any persons having a significant involvement with a hosting center, as determined by the Commission.

(c) A provision that a person owning, operating or having a significant involvement with a hosting center may be required by the Commission to be found suitable to be associated with licensed gaming, including race book or sports pool operations.

(d) Additional matters which the Commission deems necessary and appropriate to carry out the provisions of this section and which are consistent with the public policy of this State pursuant to NRS 463.0129.

3. The Commission may not adopt regulations pursuant to this section until the Commission first determines that hosting centers are secure and reliable, do not pose a threat to the integrity of gaming and are consistent with the public policy of this State pursuant to NRS 463.0129.

4. Regulations adopted by the Commission pursuant to this section must:

(a) Define "hosting center."

(b) Provide that the premises on which the hosting center is located is subject to the power and authority of the Board and Commission pursuant to NRS 463.140, as though the premises is where gaming is conducted and the hosting center is a gaming licensee.

Sec. 3. 1. The Legislature finds that:

(a) Technological advances have evolved which allow licensed gaming establishments to expose games, including, without limitation, system-based and system-supported games, gaming devices, mobile gaming systems, interactive gaming, cashless wagering systems or race books and sports pools, and to be assisted by a service provider who provides important services to the public with regard to the conduct and exposure of such games.

(b) To protect and promote the health, safety, morals, good order and general welfare of the inhabitants of this State, and to carry out the public policy declared in NRS 463.0129, it is necessary that the Board and Commission have the ability to license service providers by maintaining

strict regulation and control of the operation of such service providers and all persons and locations associated therewith.

2. Except as otherwise provided in subsection 3, the Commission may, with the advice and assistance of the Board, provide by regulation for the licensing and operation of a service provider and all persons, locations and matters associated therewith. Such regulations may include, without limitation:

(a) Provisions requiring the service provider to meet the qualifications for licensing pursuant to NRS 463.170, in addition to any other qualifications established by the Commission, and to be licensed regardless of whether the service provider holds any other license.

(b) Criteria regarding the location from which the service provider conducts its operations, including, without limitation, minimum internal and operational control standards established by the Commission.

(c) Provisions relating to the licensing of persons owning or operating a service provider, and any persons having a significant involvement therewith, as determined by the Commission.

(d) A provision that a person owning, operating or having significant involvement with a service provider, as determined by the Commission, may be required by the Commission to be found suitable to be associated with licensed gaming, including race book or sports pool operations.

(e) Additional matters which the Commission deems necessary and appropriate to carry out the provisions of this section and which are consistent with the public policy of this State pursuant to NRS 463.0129, including that a service provider must be liable to the licensee on whose behalf the services are provided for the service provider's proportionate share of the fees and taxes paid by the licensee.

3. The Commission may not adopt regulations pursuant to this section until the Commission first determines that service providers are secure and reliable, do not pose a threat to the integrity of gaming and are consistent with the public policy of this State pursuant to NRS 463.0129.

4. Regulations adopted by the Commission pursuant to this section must provide that the premises on which a service provider conducts its operations is subject to the power and authority of the Board and Commission pursuant to NRS 463.140, as though the premises is where gaming is conducted and the service provider is a gaming licensee.

5. As used in this section, ~~the~~ "service":

(a) "Interactive gaming service provider" means a person who acts on behalf of an establishment licensed to operate interactive gaming and:

(1) Manages, administers or controls wagers that are initiated, received or made on an interactive gaming system;

(2) Manages, administers or controls the games with which wagers that are initiated, received or made on an interactive gaming system are associated;

(3) Maintains or operates the software or hardware of an interactive gaming system;

(4) Provides the trademarks, trade names, service marks or similar intellectual property under which an establishment licensed to operate interactive gaming identifies its interactive gaming system to patrons;

(5) Provides information regarding persons to an establishment licensed to operate interactive gaming via a database or customer list; or

(6) Provides products, services, information or assets to an establishment licensed to operate interactive gaming and receives therefor a percentage of gaming revenue from the establishment's interactive gaming system.

(b) "Service provider" means a person who:

~~[(a)]~~ (1) Acts on behalf of another licensed person who conducts nonrestricted gaming operations, and who assists, manages, administers or controls wagers or games, or maintains or operates the software or hardware of games on behalf of such a licensed person ~~+~~

~~(b) Is~~, and is authorized to share in the revenue from games without being licensed to conduct gaming at an establishment; ~~and~~

~~(c)]~~ (2) Is an interactive gaming service provider;

(3) Is a cash access and wagering instrument service provider; or

(4) Meets such other or additional criteria as the Commission may establish by regulation.

Sec. 3.5. NRS 463.013 is hereby amended to read as follows:

463.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 463.0133 to 463.01967, inclusive, **and section 1.5 of this act** have the meanings ascribed to them in those sections.

Sec. 4. NRS 463.080 is hereby amended to read as follows:

463.080 1. The Board ~~[, with the approval of the Commission,]~~ may:

(a) Establish, and from time to time alter, such a plan of organization as it may deem expedient.

(b) Acquire such furnishings, equipment, supplies, stationery, books, motor vehicles and other things as it may deem necessary or desirable in carrying out its functions.

(c) Incur such other expenses, within the limit of money available to it, as it may deem necessary.

2. Except as otherwise provided in this chapter, all costs of administration incurred by the Board must be paid out on claims from the State General Fund in the same manner as other claims against the State are paid.

3. The Board shall, within the limits of legislative appropriations or authorizations, employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Board and Commission may require.

4. The members of the Board and all the personnel of the Board, except clerical employees and employees described in NRS 284.148, are exempt from the provisions of chapter 284 of NRS. They are entitled to such leaves of absence as the Board prescribes, but such leaves must not be of lesser duration than those provided for other state employees pursuant to chapter 284 of NRS. Employees described in NRS 284.148 are subject to the limitations specified in that section.

5. Clerical employees of the Board are in the classified service but are exempt from the provisions of chapter 284 of NRS for purposes of removal. They are entitled to receive an annual salary which must be fixed in accordance with the pay plan adopted under the provisions of that chapter.

6. The Board ~~and the Commission~~ shall ~~by suitable regulations,~~ establish, **and modify as necessary,** a comprehensive plan governing employment, job classifications and performance standards, and retention or discharge of employees to assure that termination or other adverse action is not taken against such employees except for cause. The ~~regulations~~ **plan** must include provisions for hearings in personnel matters and for review of adverse actions taken in those matters.

Sec. 5. NRS 463.145 is hereby amended to read as follows:

463.145 1. Except as otherwise provided in NRS 368A.140, the Commission shall, pursuant to NRS 463.150, adopt, amend and repeal regulations in accordance with the following procedures:

(a) At least 30 days before ~~the initial~~ **a** meeting of the Commission ~~and 20 days before any subsequent meeting~~ at which the adoption, amendment or repeal of a regulation is considered, notice of the proposed action must be:

(1) ~~Published in such newspaper as the Commission prescribes;~~
Posted on the Commission's Internet website;

(2) Mailed to every person who has filed a request therefor with the Commission; and

(3) When the Commission deems advisable, mailed to any person whom the Commission believes would be interested in the proposed action, and published in such additional form and manner as the Commission prescribes.

(b) The notice of proposed adoption, amendment or repeal must include:

(1) A statement of the time, place and nature of the proceedings for adoption, amendment or repeal;

(2) Reference to the authority under which the action is proposed; and

(3) Either the express terms or an informative summary of the proposed action.

(c) On the date and at the time and place designated in the notice, the Commission shall afford any interested person or his or her authorized representative, or both, the opportunity to present statements, arguments or contentions in writing, with or without opportunity to present them orally. The Commission shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.

(d) Any interested person may file a petition with the Commission requesting the adoption, amendment or repeal of a regulation. The petition must state, clearly and concisely:

- (1) The substance or nature of the regulation, amendment or repeal requested;
- (2) The reasons for the request; and
- (3) Reference to the authority of the Commission to take the action requested.

➡ Upon receipt of the petition, the Commission shall within 45 days deny the request in writing or schedule the matter for action pursuant to this subsection.

(e) In emergencies, the Commission may summarily adopt, amend or repeal any regulation if at the same time it files a finding that such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare, together with a statement of the facts constituting the emergency.

2. In any hearing held pursuant to this section, the Commission or its authorized representative may administer oaths or affirmations, and may continue or postpone the hearing from time to time and at such places as it prescribes.

3. The Commission may request the advice and assistance of the Board in carrying out the provisions of this section.

Sec. 5.5. NRS 463.160 is hereby amended to read as follows:

463.160 1. Except as otherwise provided in subsection 4 and NRS 463.172, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others:

(a) To deal, operate, carry on, conduct, maintain or expose for play in the State of Nevada any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool;

(b) To provide or maintain any information service;

(c) To operate a gaming salon; ~~for~~

(d) To receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool. ~~for~~; or

(e) To operate as a cash access and wagering instrument service provider.

➡ without having first procured, and thereafter maintaining in effect, all federal, state, county and municipal gaming licenses as required by statute, regulation or ordinance or by the governing board of any unincorporated town.

2. The licensure of an operator of an inter-casino linked system is not required if:

(a) A gaming licensee is operating an inter-casino linked system on the premises of an affiliated licensee; or

(b) An operator of a slot machine route is operating an inter-casino linked system consisting of slot machines only.

3. Except as otherwise provided in subsection 4, it is unlawful for any person knowingly to permit any gambling game, slot machine, gaming device, inter-casino linked system, mobile gaming system, race book or sports pool to be conducted, operated, dealt or carried on in any house or building or other premises owned by the person, in whole or in part, by a person who is not licensed pursuant to this chapter, or that person's employee.

4. The Commission may, by regulation, authorize a person to own or lease gaming devices for the limited purpose of display or use in the person's private residence without procuring a state gaming license.

5. As used in this section, "affiliated licensee" has the meaning ascribed to it in NRS 463.430.

Sec. 6. NRS 463.330 is hereby amended to read as follows:

463.330 1. Costs of administration of this chapter incurred by the Commission and the State Gaming Control Board must be paid from the State General Fund on claims presented by the Commission and the Board, respectively, and approved and paid as other claims against the State are paid. The Commission and the Board shall comply with the provisions of the State Budget Act in order that legislative authorization for budgeted expenditures may be provided.

2. In order to facilitate the confidential investigation of violations of this chapter and the regulations adopted by the Commission pursuant to this chapter, there is hereby created the State Gaming Control Board Revolving Account. Upon the written request of the Chair of the Board, the State Controller shall draw a warrant in favor of the Chair in the amount of \$10,000, and upon presentation of the warrant to the State Treasurer, the State Treasurer shall pay it. When the warrant is paid, the Chair shall deposit the \$10,000 in a bank or credit union of reputable standing which shall secure the deposit with a depository bond satisfactory to the State Board of Examiners.

3. The Chair of the Board may use the Revolving Account to pay the reasonable expenses of agents and employees of the Board engaged in confidential investigations concerning the enforcement of this chapter, including the prepayment of expenses where necessary, whether such expenses are incurred for investigation of known or suspected violations. In allowing such expenses, the Chair is not limited or bound by the provisions of NRS 281.160.

4. ~~After the expenditure of money from the Revolving Account, the Chair of the Board shall present a claim to the State Board of Examiners for the amount of the expenditure to be replaced in the Revolving Account. The claim must be allowed and paid as are other claims against the State, but the claim must not detail the investigation made as to the agent or employee making the investigation or the person or persons investigated. If the State~~

~~Board of Examiners is not satisfied with the claim, the members thereof may orally examine the Chair concerning the claim.~~

~~5-} Expenditures from the Revolving Account may not exceed the amount authorized by the Legislature in any fiscal year.~~

Sec. 7. NRS 463.386 is hereby amended to read as follows:

463.386 1. If the Commission approves the issuance of a license for gaming operations at the same location ~~{} that is currently licensed,~~ or locations ***that are currently licensed*** if the license is for the operation of a slot machine route, ~~{within 30 days following a change described in subsection 2,} the Chair of the Board, in consultation with the Chair of the Commission, may administratively determine that,~~ for the purposes of NRS 463.370 and 463.373 to 463.3855, inclusive, the gaming license shall be deemed transferred, ~~{and} the previously licensed operation shall be deemed a continuing operation {} and credit must be granted for prepaid license fees, if the Chair of the Board makes a written finding that such determination is consistent with the public policy of this State pursuant to NRS 463.0129.~~

2. ~~{Credit must be granted for prepaid license fees as described in subsection 1 if:~~

~~(a) The securities of a corporate gaming licensee are or become publicly held or publicly traded and the gaming operations of that corporation are transferred to a wholly owned subsidiary corporation;~~

~~(b) A corporate gaming licensee is merged with another corporation which is the surviving entity and at least 80 percent of the surviving entity is owned by shareholders of the former licensee;~~

~~(c) A corporate gaming licensee is dissolved, and the parent corporation of the dissolved corporation or a subsidiary corporation of the parent corporation, at least 80 percent of which is owned by the parent corporation, becomes the gaming licensee;~~

~~(d) A corporate gaming licensee or a gaming licensee which is a partnership or limited partnership is reorganized pursuant to a plan of reorganization approved by the Commission, and a limited partnership or limited liability company is the surviving entity;~~

~~(e) The assets of a gaming licensee who is a sole proprietorship are transferred to:~~

~~(1) A corporation and at least 80 percent of the stock of the corporation is held by the former sole proprietor; or~~

~~(2) A limited liability company and at least 80 percent of the interests in the limited liability company are held by the former sole proprietor;~~

~~(f) A corporate gaming licensee is dissolved and the assets of the gaming establishment are transferred to:~~

~~(1) A sole proprietorship in which the sole proprietor owned at least 80 percent of the stock of the former corporation; or~~

~~(2) A limited liability company in which at least 80 percent of the interests are owned by a person who owned at least 80 percent of the stock of the former corporation;~~

~~(g) A licensed gaming partnership or limited partnership is dissolved and the assets of the gaming establishment are transferred to a sole proprietorship in which the sole proprietor owned at least 80 percent of the former partnership or limited partnership interests;~~

~~(h) The assets of a gaming licensee who is a sole proprietorship are transferred to a partnership or limited partnership in which at least 80 percent of the ownership of the partnership or limited partnership interests are held by the former sole proprietor;~~

~~(i) A licensed gaming partnership, limited partnership or limited liability company is dissolved and the assets of the gaming establishment are transferred to a corporation, at least 80 percent of the stock of which is held by persons who held interests in the former partnership, limited partnership or limited liability company;~~

~~(j) A licensed gaming partnership or limited partnership is dissolved or reorganized and the assets of the gaming establishment are transferred to a partnership, limited partnership or limited liability company, at least 80 percent of the ownership of which is held by the former partnership interests; or~~

~~(k) A trustee, receiver, assignee for the benefit of a creditor or a fiduciary is approved to continue the operation of a licensed establishment and the Commission deems the operation to continue pursuant to the existing license of the establishment.~~

~~3-1 The Chair of the Board may refer a request for administrative determination pursuant to this section to the Board and the Commission for consideration, or may deny the request for any reasonable cause. A denial may be submitted for review by the Board and the Commission in the manner set forth by the regulations adopted by the Commission which pertain to the review of administrative approval decisions.~~

3. Except as otherwise provided in this section, no credit or refund of fees or taxes may be made because a gaming establishment ceases operation.

4. The Commission may, with the advice and assistance of the Board, adopt regulations consistent with the policy, objects and purposes of this chapter as it may deem necessary to carry out the provisions of this section.

Sec. 8. NRS 463.569 is hereby amended to read as follows:

463.569 1. Every general partner *of*, and *every* limited partner ~~to~~ *with more than a 5 percent ownership interest in*, a limited partnership which holds a state gaming license must be licensed individually, according to the provisions of this chapter, and if, in the judgment of the Commission, the public interest will be served by requiring *any other limited partners or* any or all of the limited partnership's lenders, holders of evidence of indebtedness, underwriters, key executives, agents or employees to be

licensed, the limited partnership shall require those persons to apply for a license in accordance with the laws and requirements in effect at the time the Commission requires the licensing. Publicly traded corporations which are limited partners of limited partnerships are not required to be licensed, but shall comply with NRS 463.635 to 463.645, inclusive. A person who is required to be licensed by this section as a general or limited partner shall not receive that position until the person secures the required approval of the Commission. A person who is required to be licensed pursuant to a decision of the Commission shall apply for a license within 30 days after the Commission requests the person to do so.

2. All limited partners holding a 5 percent or less ownership interest in a limited partnership, other than a publicly traded limited partnership, which hold or apply for a state gaming license, must register in that capacity with the Board and submit to the Board's jurisdiction. Such registration must be made on forms prescribed by the Chair of the Board. The Chair of the Board may require a registrant to apply for licensure at any time in the Chair's discretion. A person who is required to be registered by this section shall apply for registration within 30 days after the person becomes a limited partner holding a 5 percent or less ownership interest in a limited partnership.

3. The Commission may, with the advice and assistance of the Board, adopt such regulations as it deems necessary to carry out the provisions of subsection 2.

Sec. 9. NRS 463.5735 is hereby amended to read as follows:

463.5735 1. Every member ~~of~~ **and** transferee of a member's interest **with more than a 5 percent ownership interest** in a limited-liability company, **and every** director and manager of a limited-liability company which holds or applies for a state gaming license, must be licensed individually ~~of~~ according to the provisions of this chapter.

2. All members holding a 5 percent or less ownership interest in a limited-liability company, other than a publicly traded limited-liability company, which hold or apply for a state gaming license, must register in that capacity with the Board and submit to the Board's jurisdiction. Such registration must be made on forms prescribed by the Chair of the Board. The Chair of the Board may require a registrant to apply for licensure at any time in the Chair's discretion. A person who is required to be registered by this section shall apply for registration within 30 days after the person becomes a member holding a 5 percent or less ownership interest in a limited-liability company.

3. If, in the judgment of the Commission, the public interest will be served by requiring any members with a 5 percent or less ownership interest in a limited-liability company, or any of the limited-liability company's lenders, holders of evidence of indebtedness, underwriters, key executives, agents or employees to be licensed:

(a) The limited-liability company shall require those persons to apply for a license in accordance with the laws and requirements in effect at the time the Commission requires the licensing; and

(b) Those persons shall apply for a license within 30 days after being requested to do so by the Commission.

~~3.4~~ 4. A publicly traded corporation which is a member of a limited-liability company is not required to be licensed, but shall comply with NRS 463.635 to 463.645, inclusive.

~~4.4~~ 5. No person may become a member or a transferee of a member's interest in a limited-liability company which holds a license until the person secures the required approval of the Commission.

~~5.4~~ 6. A director or manager of a limited-liability company shall apply for a license within 30 days after assuming office.

7. *The Commission may, with the advice and assistance of the Board, adopt such regulations as it deems necessary to carry out the provisions of subsection 2.*

Sec. 10. NRS 463.639 is hereby amended to read as follows:

463.639 1. Except as otherwise provided in subsection 2, after a publicly traded corporation has registered pursuant to this chapter, and while the publicly traded corporation or any of its affiliated or intermediary companies holds a gaming license, the publicly traded corporation shall:

(a) Report promptly to the Commission in writing any change in its officers, directors or employees who are actively and directly engaged in the administration or supervision of the gaming activities of the corporation or any of its affiliated or intermediary companies.

(b) Each year furnish to the Commission a profit and loss statement and a balance sheet of the publicly traded corporation as of the end of the year, and, upon request of the Commission therefor, a copy of the publicly traded corporation's federal income tax return within 30 days after the return is filed with the Federal Government. All profit and loss statements and balance sheets must be submitted within 120 days after the close of the fiscal year to which they relate, and may be those filed by the publicly traded corporation with or furnished by it to the Securities and Exchange Commission.

(c) ~~Mail~~ **Upon request of the Chair of the Board, mail** to the Commission a copy of any statement, or amendment thereto, received from a stockholder or group of stockholders pursuant to section 13(d) of the Securities Exchange Act of 1934, as amended, within 10 days after receiving the statement or amendment thereto, and report promptly to the Commission in writing any changes in ownership of record of its equity securities which indicate that any person has become the owner of record of more than 10 percent of its outstanding equity securities of any class.

(d) Upon request of the ~~Commission~~ **Chair of the Board**, furnish to ~~the Commission~~ a copy of any document filed by the publicly traded corporation with the Securities and Exchange Commission or with any national or regional securities exchange, including documents considered to

be confidential in nature, or any document furnished by it to any of its equity security holders of any class.

2. A publicly traded corporation which was created under the laws of a foreign country shall, instead of complying with subsection 1:

(a) Each year furnish to the Commission a profit and loss statement and a balance sheet of the publicly traded corporation as of the end of the year, and, upon request of the Commission therefor, a copy of the publicly traded corporation's federal income tax return within 30 days after the return is filed with the Federal Government. All profit and loss statements and balance sheets must be submitted within 120 days after the close of the fiscal year to which they relate, and may be those filed by the publicly traded corporation with or furnished by it to the foreign governmental agency that regulates the sale of its securities.

(b) ~~Mail~~ *Upon request of the Chair of the Board, mail* to the Commission a copy of any statement, or amendment thereto, received from a stockholder or group of stockholders pursuant to law, within 10 days after receiving the statement or amendment thereto, and report promptly to the Commission in writing any changes in ownership of record of its equity securities which indicate that any person has become the owner of record of more than 10 percent of its outstanding equity securities of any class.

(c) Upon request of the ~~Commission~~ *Chair of the Board*, furnish to ~~the Commission~~ a copy of any document filed by the publicly traded corporation with the foreign governmental agency that regulates the sale of its securities or with any national or regional securities exchange, including documents considered to be confidential in nature, or any document furnished by it to any of its equity security holders of any class.

Sec. 11. NRS 463.643 is hereby amended to read as follows:

463.643 1. Each person who acquires, directly or indirectly:

(a) Beneficial ownership of any voting security; or

(b) Beneficial or record ownership of any nonvoting security,

→ in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that the person's acquisition of that ownership would otherwise be inconsistent with the declared policy of this state.

2. Each person who acquires, directly or indirectly, beneficial or record ownership of any debt security in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that the person's acquisition of the debt security would otherwise be inconsistent with the declared policy of this state.

3. Each person who, individually or in association with others, acquires, directly or indirectly, beneficial ownership of more than 5 percent of any class of voting securities of a publicly traded corporation registered with the Nevada Gaming Commission, and who is required to report, or voluntarily reports, the acquisition to the Securities and Exchange Commission pursuant

to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall , ~~file a copy of that report, and any amendments thereto, with the Nevada Gaming Commission~~ within 10 days after filing ~~that~~ **the report and any amendment thereto** with the Securities and Exchange Commission ~~it~~ , **notify the Nevada Gaming Commission in the manner prescribed by the Chair of the Board that the report has been filed with the Securities and Exchange Commission.**

4. Each person who, individually or in association with others, acquires, directly or indirectly, the beneficial ownership of more than 10 percent of any class of voting securities of a publicly traded corporation registered with the Commission, or who is required to report, or voluntarily reports, such acquisition pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall apply to the Commission for a finding of suitability within 30 days after the Chair of the Board mails the written notice.

5. A person who acquires, directly or indirectly:

(a) Beneficial ownership of any voting security; or

(b) Beneficial or record ownership of any nonvoting security or debt security,

↪ in a publicly traded corporation created under the laws of a foreign country which is registered with the Commission shall file such reports and is subject to such a finding of suitability as the Commission may prescribe.

6. Any person required by the Commission or by this section to be found suitable shall:

(a) Except as otherwise required in subsection 4, apply for a finding of suitability within 30 days after the Commission requests that the person do so; and

(b) Together with the application, deposit with the Board a sum of money which, in the opinion of the Board, will be adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application, and deposit such additional sums as are required by the Board to pay final costs and charges.

7. Any person required by the Commission or this section to be found suitable who is found unsuitable by the Commission shall not hold directly or indirectly the:

(a) Beneficial ownership of any voting security; or

(b) Beneficial or record ownership of any nonvoting security or debt security,

↪ of a publicly traded corporation which is registered with the Commission beyond the time prescribed by the Commission.

8. The violation of subsection 6 or 7 is a gross misdemeanor.

9. As used in this section, "debt security" means any instrument generally recognized as a corporate security representing money owed and

reflected as debt on the financial statement of a publicly traded corporation, including, but not limited to, bonds, notes and debentures.

Sec. 11.5. NRS 463.750 is hereby amended to read as follows:

463.750 1. Except as otherwise provided in subsections 2 and 3, the Commission may, with the advice and assistance of the Board, adopt regulations governing the licensing and operation of interactive gaming.

2. The Commission may not adopt regulations governing the licensing and operation of interactive gaming until the Commission first determines that:

(a) Interactive gaming can be operated in compliance with all applicable laws;

(b) Interactive gaming systems are secure and reliable, and provide reasonable assurance that players will be of lawful age and communicating only from jurisdictions where it is lawful to make such communications; and

(c) Such regulations are consistent with the public policy of the State to foster the stability and success of gaming.

3. The regulations adopted by the Commission pursuant to this section must:

(a) Establish the investigation fees for:

(1) A license to operate interactive gaming;

(2) A license for a manufacturer of interactive gaming systems; ~~and~~

(3) A license for a manufacturer of equipment associated with interactive gaming. ~~and~~; and

(4) A license for a service provider to perform the actions described in paragraph (a) of subsection 5 of section 3 of this act.

(b) Provide that:

(1) A person must hold a license for a manufacturer of interactive gaming systems to supply or provide any interactive gaming system, including, without limitation, any piece of proprietary software or hardware; ~~and~~

(2) A person may be required by the Commission to hold a license for a manufacturer of equipment associated with interactive gaming. ~~and~~; and

(3) A person must hold a license for a service provider to perform the actions described in paragraph (a) of subsection 5 of section 3 of this act.

(c) Set forth standards for the suitability of a person to be licensed as a manufacturer of interactive gaming systems, ~~or~~ ~~or~~ manufacturer of equipment associated with interactive gaming or a service provider as described in paragraph (b) of subsection 5 of section 3 of this act that are as stringent as the standards for a nonrestricted license.

(d) **Set forth provisions governing:**

(1) The initial fee for a license for a service provider as described in paragraph (b) of subsection 5 of section 3 of this act.

(2) The fee for the renewal of such a license for such a service provider and any renewal requirements for such a license.

(3) Any portion of the license fee paid by a person licensed to operate interactive gaming, pursuant to subsection 1 of NRS 463.770, for which a service provider may be liable to the person licensed to operate interactive gaming.

(e) Provide that gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions of NRS 463.370 as the games and gaming devices of the establishment.

~~**(e)**~~ **(f)** Set forth standards for the location and security of the computer system and for approval of hardware and software used in connection with interactive gaming.

~~**(f)**~~ **(g)** Define "equipment associated with interactive gaming," "interactive gaming system," "manufacturer of equipment associated with interactive gaming," "manufacturer of interactive gaming systems," "operate interactive gaming" and "proprietary hardware and software" as the terms are used in this chapter.

4. Except as otherwise provided in subsection 5, the Commission shall not approve a license for an establishment to operate interactive gaming unless:

(a) In a county whose population is 400,000 or more, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices.

(b) In a county whose population is more than 40,000 but less than 400,000, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Holds a nonrestricted license for the operation of games and gaming devices;

(2) Has more than 120 rooms available for sleeping accommodations in the same county;

(3) Has at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

(4) Has at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

(5) Has a gaming area that is at least 18,000 square feet in area with at least 1,600 slot machines, 40 table games, and a sports book and race pool.

(c) In all other counties, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Has held a nonrestricted license for the operation of games and gaming devices for at least 5 years before the date of its application for a license to operate interactive gaming;

(2) Meets the definition of group 1 licensee as set forth in the regulations of the Commission on the date of its application for a license to operate interactive gaming; and

(3) Operates either:

(I) More than 50 rooms for sleeping accommodations in connection therewith; or

(II) More than 50 gaming devices in connection therewith.

5. The Commission may:

(a) Issue a license to operate interactive gaming to an affiliate of an establishment if:

(1) The establishment satisfies the applicable requirements set forth in subsection 4; and

(2) The affiliate is located in the same county as the establishment; and

(b) Require an affiliate that receives a license pursuant to this subsection to comply with any applicable provision of this chapter.

6. It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others, to operate interactive gaming:

(a) Until the Commission adopts regulations pursuant to this section; and

(b) Unless the person first procures, and thereafter maintains in effect, all appropriate licenses as required by the regulations adopted by the Commission pursuant to this section.

7. A person who violates subsection 6 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years or by a fine of not more than \$50,000, or both.

Sec. 12. NRS 465.075 is hereby amended to read as follows:

465.075 *1.* It is unlawful for any person ~~at a licensed gaming establishment~~ to use, ~~for~~ possess with the intent to use ~~it~~ **or assist another person in using or possessing with the intent to use any computerized, electronic, electrical or mechanical device to assist:**

~~1. In projecting~~ **which is designed, constructed, altered or programmed to obtain an advantage at playing any game in a licensed gaming establishment, including, without limitation, a device that:**

(a) Projects the outcome of the game;

~~2. In keeping~~

(b) Keeps track of ~~the~~ cards played ~~it~~;

~~3. In analyzing~~ **or cards prepared for play;**

(c) Analyzes the probability of the occurrence of an event relating to ~~the~~ a game; or

~~4. In analyzing~~

(d) Analyzes the strategy for playing or betting to be used in the game,

↪ except as may be made available as part of an approved game or otherwise permitted by the Commission.

2. As used in this section, "advantage" means a benefit obtained by one or more participants in a game through information or knowledge that is not made available as part of the game as approved by the Board or Commission.

Sec. 13. ~~[NRS 268A.200 is hereby amended to read as follows:~~

~~268A.200 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of:~~

~~(a) Less than 7,500 persons, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.~~

~~(b) At least 7,500 persons, the rate of the tax is 5 percent of the admission charge to the facility.~~

~~2. Amounts paid for:~~

~~(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section.~~

~~(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer, the operator of the entertainment facility or an affiliate of the taxpayer or the operator, are not taxable pursuant to this section. As used in this paragraph, "affiliate" has the meaning ascribed to it in NRS 463.0133.~~

~~3. A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.~~

~~4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.~~

~~5. The tax imposed by subsection 1 does not apply to:~~

~~(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.~~

~~(b) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS.~~

~~(c) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.~~

~~(d) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.~~

~~(e) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, if the~~

~~facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.~~

~~(f) Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.~~

~~(g) Live entertainment that is provided at a trade show.~~

~~(h) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.~~

~~(i) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.~~

~~(j) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.~~

~~(k) Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.~~

~~(l) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:~~

~~(1) Not the predominant element of the attraction; and~~

~~(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.~~

~~(m) Live entertainment that is provided to the public in an outdoor area, without any requirements for the payment of an admission charge or the purchase of any food, refreshments or merchandise.~~

~~(n) An outdoor concert, unless the concert is provided on the premises of a licensed gaming establishment.~~

~~(o) Beginning July 1, 2007, race events scheduled at a race track in this State as a part of the National Association for Stock Car Auto Racing Nextel Cup Series, or its successor racing series, and all races associated therewith.~~

~~(p) Beginning July 1, 2007, a baseball contest, event or exhibition conducted by professional minor league baseball players at a stadium in this State.~~

~~(q) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.~~

~~6. The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph (q) of subsection 5. The regulations must require the taxpayer to seek an administrative ruling from~~

~~the Chair of the Board, provide a procedure for appealing that ruling to the Commission and further describe the forms of incidental or ambient entertainment exempted pursuant to that paragraph.~~

~~7. As used in this section, "maximum occupancy" means, in the following order of priority:~~

~~(a) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;~~

~~(b) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or~~

~~(c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.~~ **(Deleted by amendment.)**

Sec. 14. NRS 463.332 is hereby repealed.

Sec. 15. ~~11.~~ This ~~section and sections 1 to 12, inclusive, and 14 of this act become~~ **becomes** effective upon passage and approval.

~~† 2. Section 13 of this act becomes effective upon passage and approval and applies retroactively from January 1, 2004.~~

TEXT OF REPEALED SECTION

463.332 Account for Investigating Cash Transactions of Gaming Licensees: Creation; use; claims.

1. The Account for Investigating Cash Transactions of Gaming Licensees is hereby created in the Investigative Fund. The Account is a continuing account and its money does not revert to the State General Fund at any time.

2. The money in the Account must be used by the Board to conduct undercover investigations related to alleged or suspected violations of regulations concerning cash transactions of gaming licensees.

3. Claims against the Account which are approved by the Board must be paid as other claims against the State are paid.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 183 adds definitions for an "interactive gaming service provider," and a "cash access and wagering instrument service provider," both of which will be regulated by the Nevada Gaming Commission. It also makes it unlawful for a person to operate as a cash access and wagering service provider without proper gaming licenses. It requires that regulations governing interactive gaming must include licensing for service providers based on certain standards and investigations, as well as necessary fees for those investigations. The amendment also deletes provisions for the live entertainment tax, which was moved to another bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 230.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 291.

"SUMMARY—~~[Prohibits the sale or provision of foods]~~ **Requires the boards of trustees of school districts and the governing bodies of charter schools to adopt a policy governing the use of foods and beverages** containing trans fats at public schools within this State. (BDR 34-666)"

"AN ACT relating to education; requiring the board of trustees of each school district and the governing body of each charter school to ~~ensure that~~ **adopt a policy governing the use of** foods **and beverages** containing trans fats ~~are not sold, made available or used at the school or at a school within the district;~~ **at public schools;** setting forth an exception for foods provided through certain programs of the Federal Government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth provisions relating to programs of nutrition and allows the board of trustees of each school district and the governing body of each charter school to operate or provide for the operation of programs of nutrition in the public schools under their jurisdiction. (NRS 387.070-387.105) This bill ~~prohibits~~ **requires** the board of trustees of a school district and the governing body of a charter school ~~from selling or serving at the public schools food or beverages that contain trans fats.~~ **to adopt a policy which: (1) provides that no food or beverage containing trans fats may be purchased by the school district or charter school and provided to pupils; (2) provides that trans fats are not used in food preparation by the school district or charter school; and (3) includes guidelines for parents and guardians who wish to bring food and beverages to school for certain events.** The ~~prohibition set forth in this bill~~ **policy adopted by the board of trustees of the school district or governing body of the charter school** does not apply with respect to food made available pursuant to the federal School Breakfast Program or the National School Lunch Program. For the purposes of this bill, a food or beverage is deemed to contain trans fats if an ingredient thereof is vegetable shortening, margarine or partially hydrogenated vegetable oil, unless the manufacturer's label or the required nutrition labeling of the food or beverage, pursuant to applicable federal laws and regulations, states that the food or beverage contains zero grams of trans fat per serving.

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 3, the board of trustees of each school district and the governing body of each charter school shall ~~ensure that~~ adopt a policy which:

(a) ~~[(No)]~~ Provides that no food or beverage containing industrially produced trans fats ~~[is made available, caused to be made available or allowed to be made available]~~ may be purchased by the school district or the charter school and provided to pupils of the charter school or school district, as applicable; ~~and]~~

(b) ~~[(No)]~~ Provides that no industrially produced trans fats are used, caused to be used or allowed to be used in the preparation of any item of food by the school district or the charter school which is intended for pupils of the charter school or school district, as applicable ~~and]~~; and

(c) Includes guidelines for parents and guardians and other persons who wish to bring food or beverages to a school for activities authorized by the school including, without limitation, back-to-school events and celebratory events.

2. Except as otherwise provided in subsection 3, the ~~[[prohibition set forth in]]~~ policy adopted pursuant to subsection 1 applies with respect to all food and beverages that are:

(a) Sold on school grounds during the regular school day or during an extended school day ~~[activities,]~~ program or athletic event; and

(b) Served to pupils of ~~[(the)]~~ a charter school or school district, as applicable, ~~[[from any source,]]~~ including, without limitation, food and beverages from any program of nutrition, school store, vending machine, school cafeteria ~~and]~~ and school food service establishment. ~~and fundraising activity, regardless of whether such activity is sponsored by a school.]~~

3. The ~~[[provisions of this section do]]~~ policy adopted pursuant to subsection 1 does not apply with respect to food that is made available through:

(a) The School Breakfast Program, 42 U.S.C. §§ 1771 et seq.; or

(b) The National School Lunch Program, 42 U.S.C. §§ 1751 et seq.

4. For the purposes of this section, a food or beverage shall be deemed to contain industrially produced trans fat if one of the ingredients thereof is vegetable shortening, margarine or partially hydrogenated vegetable oil, unless the manufacturer's label or the required nutrition labeling of the food or beverage, pursuant to applicable federal laws and regulations, states that the food or beverage contains zero grams of trans fat per serving.

5. As used in this section:

(a) "Extended school day ~~[activity]~~ program" means ~~[[an activity]]~~ a program that is sponsored by a school or school district and is carried out on school grounds before or after regular school hours ~~and]~~ for the purpose of providing formal supervision to children, including, without limitation, ~~clubs, yearbook, band and choir practice, student government, drama,]~~ programs for child care ~~and]~~ and ~~[[programs for the supervision of children]]~~ before or after school ~~and]~~ programs.

(b) "School food service establishment" means any establishment or other facility that:

(1) Is located on school grounds; and

(2) Regularly sells or serves meals or items of food to pupils.

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

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Senator Denis requested that his remarks be entered in the Journal.

Amendment No. 291 to Senate Bill No. 230 revises the bill to require that school districts establish a policy concerning trans fats in food purchased and prepared by the school. This change replaces broader provisions concerning all such food or beverages present in the school. Instead, the policy must contain guidelines for parents and others concerning food brought to the school for authorized school activities, such as back-to-school and celebratory events.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 245.

Bill read second time.

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

Amendment No. 331.

"SUMMARY—Creates the Statewide Alert System for the Safe Return of Missing **Endangered** Older Persons. (BDR 38-710)"

"AN ACT relating to older persons; creating the Statewide Alert System for the Safe Return of Missing **Endangered** Older Persons; requiring the

Department of Public Safety to administer and adopt regulations for the System; prescribing the circumstances under which a law enforcement agency may activate the System; providing immunity from civil liability for ~~for a broadcaster~~ **certain persons** who ~~broadcasts~~ **disseminate** certain information pursuant to a notification of activation of the System; providing immunity from civil liability for certain persons who enter into agreements with the Department to establish or maintain an Internet website for the System; providing that a person who intentionally makes certain false or misleading statements to cause activation of the System is guilty of a category E felony; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 7 of this bill creates the Statewide Alert System for the Safe Return of Missing **Endangered** Older Persons, which is composed of a voluntary partnership among the Department of Public Safety, the Department of Transportation, state and local law enforcement agencies, **media outlets** and ~~broadcasters~~, **other public and private organizations** to assist in the search for and safe return of missing **endangered** older persons. ~~The System is similar to the existing Statewide Alert System for the Safe Return of Abducted Children (commonly known as the "Amber Alert Program").~~ **Section 7** requires the Department of Public Safety to administer the System. **Section 5 of this bill defines the term "missing endangered older person" for the purposes of the System to mean a person who is 60 years of age or older whose whereabouts are unknown and: (1) who has been diagnosed with a medical or mental health condition that places the person in danger of serious physical harm or death; or (2) who is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death.** **Section 8** of this bill requires the Department of Public Safety to: (1) adopt regulations governing the operation of the System; (2) ~~oversee the System;~~ (3) ~~set~~ **develop a plan for carrying out the System which sets** forth the components of the System; **(3) oversee the System;** (4) supervise and evaluate any training associated with the System; (5) monitor, review and evaluate the activations of the System for compliance with the provisions of this bill; and (6) conduct periodic tests of the System. **Section 9** of this bill prescribes the circumstances under which a law enforcement agency may activate the System. **Section 10** of this bill provides immunity from civil liability for a ~~broadcaster~~ **media outlet or a public or private organization that participates in the System and any person working for the media outlet or public or private organization** who ~~broadcasts~~ **disseminates** certain information pursuant to a notification of activation of the System and for a person who enters into an agreement with the Department of Public Safety to establish or maintain a website for the System if the agreement provides that only the law enforcement agency activating the System has the authority or ability to place information on the website.

Existing law provides that a person who intentionally makes any false or misleading statement to cause the activation of the "Amber Alert" system is guilty of a category E felony. (NRS 207.285) **Section 11** of this bill provides the same penalty for a person who intentionally makes any false or misleading statement to cause the activation of the System created by this bill.

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

Section 1. Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. ~~["Broadcaster" means a radio broadcasting station, cable operator or other video service provider or television broadcasting station primarily engaged in, and deriving income from, the business of facilitating speech via over-the-air communications, both as to pure speech and commercial speech.] (Deleted by amendment.)~~

Sec. 4. "Department" means the Department of Public Safety.

Sec. 4.5. "Media outlet" means a company or other similar entity that transmits news, feature stories, entertainment or other information to the public through various distribution channels, including, without limitation, newspapers, magazines, radio, broadcast, cable and satellite television and electronic media.

Sec. 5. ~~["Older"]~~ "Missing endangered older person" means a person who is 60 years of age or older ~~and~~ whose whereabouts are unknown and who:

1. Has been diagnosed with a medical or mental health condition that places the person in danger of serious physical harm or death; or

2. Is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death.

Sec. 6. "System" means the Statewide Alert System for the Safe Return of Missing Endangered Older Persons created by section 7 of this act.

Sec. 7. 1. There is hereby created the Statewide Alert System for the Safe Return of Missing Endangered Older Persons, which is composed of a voluntary partnership among the Department of Public Safety, the Department of Transportation, state law enforcement agencies, local law enforcement agencies, media outlets and ~~broadcasters~~ other public or private organizations to assist in the search for and safe return of missing endangered older persons. The Department of Public Safety shall administer the System ~~and~~ within the limits of available money.

2. Each law enforcement agency ~~and broadcaster~~, media outlet and public or private organization that chooses to participate in the System shall comply with the provisions of sections 2 to 10, inclusive, of this act

and any requirements prescribed by the Department for participation in the System.

3. Each law enforcement agency that chooses to participate in the System shall:

(a) Adopt a written policy concerning activation of the System by the agency that is consistent with the provisions of sections 2 to 10, inclusive, of this act and the regulations adopted by the Department pursuant to section 8 of this act; and

(b) Submit a copy of the written policy to the Department.

Sec. 8. 1. The Department shall:

(a) ~~Oversee the System;~~

~~(b) Set forth;~~ Develop a plan for carrying out the System which includes the components of the System;

(b) Oversee the System;

(c) Supervise and evaluate any training associated with the System;

(d) Monitor, review and evaluate the activations of the System to determine whether such activations complied with the provisions of sections 2 to 10, inclusive, of this act; and

(e) Conduct periodic tests of the System.

2. The Department may:

(a) Dedicate the System to one or more persons;

(b) Establish a name for the System that is in addition to the definition set forth in section 6 of this act;

(c) Identify and apply for federal funding available to carry out the provisions of sections 2 to 10, inclusive, of this act; and

(d) Accept gifts, grants and donations for use in carrying out the provisions of sections 2 to 10, inclusive, of this act.

3. The Department shall, in consultation with representatives of ~~this State's Emergency Alert System,~~ the Department of Transportation, the Nevada Sheriffs' and Chiefs' Association, ~~and~~ the Nevada Broadcasters Association, media outlets that participate in the System and any other public or private organization that participates in the System, adopt regulations to carry out the provisions of sections 2 to 10, inclusive, of this act.

Sec. 9. 1. A law enforcement agency which has jurisdiction over the investigation of a missing endangered older person may activate the System to ~~broadcast an emergency bulletin~~ disseminate a notice on behalf of the missing endangered older person if the law enforcement agency has:

(a) Confirmed that the whereabouts of the missing endangered older person ~~is missing,~~ are unknown;

(b) Confirmed either that the missing endangered older person ~~has~~ :

(1) Has been diagnosed with a medical or mental health condition that places the missing endangered older person in danger of serious physical harm or death; or

(2) Is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death; and

(c) Received sufficient descriptive information about the missing endangered older person or other pertinent information to warrant ~~immediate broadcast~~ dissemination of the information.

2. Before activation of the System on behalf of ~~any~~ a missing endangered older person, the law enforcement agency shall determine whether the ~~broadcast~~ dissemination of information will encompass:

(a) A particular neighborhood, city, county, region or state; or

(b) More than one neighborhood, city, county, region or state.

3. A law enforcement agency is not required to obtain the prior consent of the Department before activating the System, but the Department may review an activation of the System after the activation is complete.

4. A law enforcement agency that activates the System shall notify the Department and all participating members of the System upon cancellation of the activation and shall report the final disposition of the search for the missing endangered older person to the Department.

Sec. 10. 1. If a ~~broadcaster~~ media outlet or any other public or private organization that participates in the System receives a notification of activation of the System by a law enforcement agency concerning a missing endangered older person and as a result of that notification ~~broadcasts~~ disseminates descriptive information concerning the missing endangered older person and other information contained in the notification to assist with the safe return of the missing endangered older person, the ~~broadcaster~~ media outlet, public or private organization and any person working for the media outlet or public or private organization is immune from civil liability for any act reasonably related to the ~~broadcast~~ dissemination of that information.

2. If a person enters into an agreement with the Department to establish or maintain an Internet website for the System and the agreement provides that only the law enforcement agency activating the System has the authority or ability to place information on the website, the person who establishes or maintains the Internet website is immune from civil liability in any action based upon the information that is placed on the Internet website by the authorized law enforcement agency.

Sec. 11. NRS 207.285 is hereby amended to read as follows:

207.285 1. A person who intentionally makes any false or misleading statement, including, without limitation, any statement that conceals facts, omits facts or contains false or misleading information concerning any material fact, to any police officer, sheriff, district attorney, deputy sheriff, deputy district attorney or member of the Department of Public Safety to cause the ~~System~~ Statewide Alert System for the Safe Return of Abducted Children created by NRS 432.340 or the Statewide Alert System for the Safe Return of Missing Endangered Older Persons created by section 7 of

this act to be activated is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. The Attorney General or the district attorney of the county in which a person made a false or misleading statement may investigate and prosecute any violation of the provisions of this section.

~~{3. As used in this section, "System" means the Statewide Alert System for the Safe Return of Abducted Children created by NRS 432.340.}~~

Sec. 12. The Department of Public Safety shall adopt the regulations required by section 8 of this act on or before December 31, 2011.

Sec. 13. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 331 revises Senate Bill No. 245 by specifying "endangered" older persons.

Defining the term "missing endangered older person" for the purpose of the System to mean that a person who is 60 years of age or older whose whereabouts are unknown and:

1. Who has been diagnosed with a medical or mental health condition that places the person in danger of serious physical harm or death; or

2. Who is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death.

It also requires the Department of Public Safety to develop a plan for implementing the System and overseeing the System.

And, it further provides immunity from civil liability for media outlets or public or private organizations that participate in the System and any person working for the media outlet or public or private organization that disseminates certain information pursuant to the notification of activation of the System.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 257.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 163.

"SUMMARY—Revises various provisions governing graffiti offenses. (BDR 15-616)"

"AN ACT relating to crimes; revising various provisions governing graffiti offenses; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally provides that a person who unlawfully places graffiti on or otherwise defaces public or private property is guilty of a misdemeanor, gross misdemeanor or felony, depending on the value of the loss of the property. Additionally, if a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of the loss of all the property must be aggregated for the purposes of determining a penalty

if the value of the loss is \$5,000 or more. (NRS 206.330) **Section 1** of this bill revises this provision and requires aggregation when the value of the loss is ~~\$250~~ **\$500** or more. **Section 1** also provides that a person who commits an offense on any ~~designated historic~~ **protected** site in this State is guilty of a category C felony.

Existing law also requires a person who unlawfully places graffiti on or otherwise defaces public or private property to pay a monetary fine and perform community service. (NRS 206.330) **Section 1** specifies that in addition to any other fine or penalty imposed, a court may order such a person to pay restitution. **Section 1 also provides that a person convicted of a third offense must perform up to 300 hours of community service for up to a year cleaning up, repairing, replacing or keeping clean of graffiti the property damaged or destroyed by the person or another specified property.**

Section 2 of this bill also authorizes a court to order ~~such~~ a person **who unlawfully places graffiti on or otherwise defaces public or private property** to ~~[(1) clean up, repair or replace the damaged property or keep such property or another specified property free of graffiti for up to 1 year; and (2)]~~ participate in counseling, and if the person is less than 18 years of age, order the parent or legal guardian of the person to attend or participate in counseling. **Section 2** further authorizes the owner of public or private property that has been damaged by graffiti to bring a civil action against the person who damaged the property. The property owner may be awarded damages in an amount up to three times the cost of restoring the property, in addition to attorney's fees and costs.

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

Section 1. NRS 206.330 is hereby amended to read as follows:

206.330 1. Unless a greater criminal penalty is provided by a specific statute, a person who places graffiti on or otherwise defaces the public or private property, real or personal, of another, without the permission of the owner:

(a) Where the value of the loss is less than \$250, is guilty of a misdemeanor.

(b) Where the value of the loss is \$250 or more but less than \$5,000, is guilty of a gross misdemeanor.

(c) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

*(d) Where the offense is committed on any ~~designated historic~~ **protected** site in this State, is guilty of a category C felony and shall be punished as provided in NRS 193.130. If the court grants probation to such*

a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

2. If a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses must be aggregated for the purpose of determining the penalty prescribed in subsection 1, but only if the value of the loss when aggregated is ~~at least \$5,000~~ ~~or more~~ ***\$500*** or more.

3. A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:

(a) For the first offense, pay a fine of not less than \$400 but not more than \$1,000 and perform 100 hours of community service.

(b) For the second offense, pay a fine of not less than \$750 but not more than \$1,000 and perform 200 hours of community service.

(c) For the third and each subsequent offense ~~to pay~~ :

(1) Pay a fine of \$1,000 ; and ~~perform 200 hours of~~

(2) Perform up to 300 hours of community service ~~for up to 1 year,~~ as determined by the court. The court may order the person to repair, replace, clean up or keep free of graffiti the property damaged or destroyed by the person or, if it is not practicable for the person to repair, replace, clean up or keep free of graffiti that specific property, the court may order the person to repair, replace, clean up or keep free of graffiti another specified property.

↪ The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

4. ***The court may, in addition to any other fine or penalty imposed, order a person who violates subsection 1 to pay restitution.***

5. The parent or legal guardian of a person under ~~the age of~~ 18 years ***of age*** who violates this section is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.

~~§-1~~ 6. If a person who is 18 years of age or older is found guilty of violating this section, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years. The court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court shall issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses together with a copy of the order.

~~§-1~~ 7. The Department of Motor Vehicles:

(a) Shall not treat a violation of this section in the manner statutorily required for a moving traffic violation.

(b) Shall report the suspension of a driver's license pursuant to this section to an insurance company or its agent inquiring about the person's driving record. An insurance company shall not use any information obtained pursuant to this paragraph for purposes related to establishing premium rates or determining whether to underwrite the insurance.

~~17.1~~ 8. A criminal penalty imposed pursuant to this section is in addition to any civil penalty or other remedy available pursuant to *this section or* another statute for the same conduct.

~~18.1~~ 9. As used in this section:

(a) ~~"Historic site" means a site, landmark or monument of historical significance pertaining to the history of the settlement of Nevada, or Indian campgrounds, shelters, petroglyphs, pictographs and burials.~~

~~(b)~~ "Impairment" means the disruption of ordinary and incidental services, the temporary loss of use or the removal of the property from service for repair of damage.

(b) "Protected site" means:

(1) A site, landmark, monument, building or structure of historical significance pertaining to the history of the settlement of Nevada;

(2) Any Indian campgrounds, shelters, petroglyphs, pictographs and burials; or

(3) Any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, burial ground or sites of religious or cultural importance to an Indian tribe.

(c) "Value of the loss" means the cost of repairing, restoring or replacing the property, including, without limitation, the cost of any materials and labor necessary to repair, restore or replace the item.

Sec. 2. NRS 206.345 is hereby amended to read as follows:

206.345 1. *A court may, in addition to any other fine or penalty imposed, order a person who places graffiti on or otherwise defaces public or private property in violation of NRS 206.125 or 206.330 to ~~do any or all of the following:~~*

~~(a) Clean up, repair or replace the damaged property or keep the damaged property or another specified property in the community free of graffiti for up to 1 year.~~

~~(b) Participate~~ participate in counseling, and if the person is less than 18 years of age, order the parent or legal guardian of the person to attend or participate in counseling pursuant to NRS 62E.290.

2. If a court orders a person who violates the provisions of NRS 206.125 or 206.330 to pay restitution, the person shall pay the restitution to:

~~11.1~~ (a) The owner of the property which was affected by the violation; or

~~12.1~~ (b) If the violation involved the placing of graffiti on any public property, the governmental entity that incurred expenses for removing, covering or cleaning up the graffiti.

3. The owner of public or private property that has been damaged by graffiti may bring a civil action against the person who placed the graffiti on such property. The court may award to the property owner damages in an amount up to three times the cost of restoring the property plus attorney's fees and costs, which may be recovered from the offender or, if the offender is less than 18 years of age, from the parent or legal guardian of the offender.

Sec. 3. NRS 381.225 is hereby amended to read as follows:

381.225 1. It is unlawful for any person to commit vandalism upon any historic or prehistoric sites, natural monuments, speleological sites and objects of antiquity, or to write or paint or carve initials or words, or in any other way deface, any of those objects, Indian paintings or historic buildings.

2. Unless a greater penalty is provided in NRS 206.125 ~~††~~ **or 206.330**, a person violating the provisions of subsection 1 is guilty of a public offense proportionate to the value of the property damaged or destroyed as set forth in NRS 193.155.

Senator Copenig moved the adoption of the amendment.

Remarks by Senator Copenig.

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

Amendment No. 163 to Senate Bill No. 257 makes three primary changes to the bill.

1) It changes "designated historic site" to "protected site" and includes archeological or paleontological areas.

2) It increases the aggregate value of damage from \$250 to \$500 and;

3) It provides that a person convicted of a third offense must perform up to 300 hours of community service for up to a year cleaning up, repairing, replacing, or keeping clean of graffiti the damaged property or another site.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 260.

Bill read second time.

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

Amendment No. 343.

"SUMMARY—Provides an alternative procedure for the creation of certain local improvement districts. (BDR 21-126)"

"AN ACT relating to local improvements; providing an alternative procedure for the creation of certain local improvement districts that include a renewable energy project ~~††~~ **or an energy efficiency improvement project**; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the procedures for a governing body to acquire, improve, equip, operate and maintain local improvement districts that include various types of projects, including renewable energy projects. ~~††~~ **and energy efficiency improvement projects.** (NRS 271.265-271.630) **Sections 2-4** of

this bill provide an alternative procedure for the creation of a local improvement district that includes a renewable energy project ~~or an~~ energy efficiency improvement project.

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

Section 1. Chapter 271 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *A governing body may adopt an ordinance pursuant to NRS 271.325 creating an improvement district and ordering a renewable energy project or an energy efficiency improvement project to be acquired or improved and may contract with a person to construct or improve a renewable energy project ~~or an~~ energy efficiency improvement project, issue bonds or otherwise finance the cost of the renewable energy project or energy efficiency improvement project and levy assessments on assessable property, without complying with the provisions of NRS 271.305 to 271.320, inclusive, 271.380 and 271.385, if the governing body:*

(a) Issues a provisional order pursuant to NRS 271.280 to form an improvement district for a renewable energy project ~~or an~~ energy efficiency improvement project; and

(b) Has entered into a written agreement with the owners of all assessable property who applied pursuant to section 4 of this act to have their property included in the improvement district which states that:

(1) The governing body agrees to enter into a contract for the acquisition, construction or improvement of the renewable energy project or energy efficiency improvement project in the improvement district.

(2) The owners of the assessable property agree in writing that the governing body may create the improvement district, levy assessments against their property and, for all other purposes relating to the improvement district, proceed pursuant to the provisions of this section.

2. *If an ordinance is adopted and the agreement entered into pursuant to subsection 1 so states:*

(a) ~~The governing body may amend the ordinance creating the improvement district, change the assessment roll and redistribute the assessments required pursuant to NRS 271.390 in the same manner in which these actions were originally taken to add additional property to the improvement district. The assessments may be redistributed between the assessable property originally in the improvement district and the additional assessable property if:~~

~~(1) The owners of the additional assessable property submit an application pursuant to section 4 of this act and consent in writing to inclusion of their property in the improvement district and to the amount of the assessment against their property; and~~

~~(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the improvement district.~~

~~(b) The governing body may amend the ordinance creating the improvement district, change the assessment roll and redistribute the assessments required by NRS 271.390 in the same manner in which these actions were originally taken to remove assessable property from the improvement district. The assessments may be redistributed among the assessable property remaining in the improvement district if:~~

~~(1) The owners of the remaining assessable property consent in writing to the amount of the revised assessment on their property; and~~

~~(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the improvement district.~~

~~(c)~~ The governing body may adopt any ordinance pertaining to the improvement district including the ordinance creating the improvement district required by NRS 271.325, the ordinance authorizing interim warrants required by NRS 271.355, the ordinance levying assessments required by NRS 271.390, the ordinance authorizing bonds required by NRS 271.475 or any ordinance amending those ordinances after a single reading and without holding a hearing thereon, as if an emergency exists, upon an affirmative vote of not less than two-thirds of all voting members of the governing body, excluding from any computation any vacancy on the governing body and any members thereon who may vote to break a tie vote, and provide that the ordinances become effective at the time an emergency ordinance would have become effective. The provisions of NRS 271.308 do not apply to any such ordinance.

~~(d)~~ (b) The governing body may provide for a reserve fund, letter of credit, surety bond or other collateral for payment of any interim warrants or bonds issued for the improvement district and include all or any portion of the costs thereof in the amounts assessed against the property in the improvement district and in the amount of bonds issued for the improvement district. The governing body may provide for the disposition of interest earned on the reserve fund and other bond proceeds, for the disposition of unexpended bond proceeds after completion of the renewable energy project or energy efficiency improvement project and for the disposition of the unexpended balance in the reserve fund after payment in full of the bonds for the improvement district.

3. If the governing body of a municipality forms an improvement district pursuant to the provisions of this section, the governing body:

(a) Is not required to adopt the resolutions required pursuant to the provisions of NRS 271.310, 271.360 and 271.390.

(b) Shall be deemed to have adopted the resolution required pursuant to the provisions of NRS 271.325 if the plans and specifications are sufficiently specific to allow a competent contractor with the assistance of a competent engineer to estimate the cost of constructing the renewable energy project or energy efficiency improvement project and to construct the renewable energy project ~~or~~ energy efficiency improvement project.

Sec. 3. 1. Any agreement entered into pursuant to section 2 of this act must:

- (a) Include a description of the property in the improvement district.
- (b) Be signed by the chair of the governing body and the owners of all assessable property within the improvement district. If a tract of assessable property within the improvement district is owned by more than one person, each person who owns the tract must sign the agreement.
- (c) Be accompanied by an acknowledgment of each signature.
- (d) Be recorded in the office of the county recorder.

2. Upon recording pursuant to paragraph (d) of subsection 1, the agreement:

- (a) Is binding on all subsequent owners of assessable property in the improvement district;
- (b) Is not extinguished by the sale of any property on account of nonpayment of general taxes or any other sale of the property; and
- (c) Is prior and superior to all liens, claims, encumbrances and titles other than the liens of assessment and general taxes.

Sec. 4. 1. An owner of a tract that is included in a provisional order to form an improvement district for a renewable energy project or an energy efficiency improvement project who wants to have the tract included in the assessable property of an improvement district for a renewable energy project or an energy efficiency improvement project must submit an application to the governing body on a form prescribed by the governing body.

2. If more than one person owns a tract that is included in a provisional order to form an improvement district for a renewable energy project ~~or~~ or an energy efficiency improvement project, each owner of the tract must submit an application to the governing body in order to have the tract included in the assessable property of a renewable energy project ~~or~~ or an energy efficiency improvement project.

3. The governing body may not include a tract in the assessable property of an improvement district for a renewable energy project or an energy efficiency improvement project unless the owner or owners of the tract apply pursuant to this section to have the tracts included.

Sec. 5. NRS 271.270 is hereby amended to read as follows:

271.270 The governing body of any municipality, upon behalf of the municipality and in its name, for the purpose of defraying all the cost of acquiring or improving, or acquiring and improving, any project herein authorized, or any portion of the cost thereof not to be defrayed with moneys available therefor from the general fund, any special fund, or otherwise, shall have power hereunder:

1. To levy assessments against assessable property within the municipality and to cause the assessments so levied to be collected.

2. ~~For~~ **Except as otherwise provided in NRS 271.495, to** levy from time to time and cause to be collected taxes against all taxable property within the

municipality, without limitation as to rate or amount, except for the limitation in Section 2 of Article 10 of the Constitution of the State of Nevada, to pay the principal of and interest on bonds to the extent assessments are insufficient therefor.

3. To pledge the proceeds of any assessments and taxes levied hereunder to the payment of special assessment bonds and to create liens on such proceeds to secure such payments.

4. To issue special assessment bonds as herein provided.

5. To make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted herein, or in the performance of the municipality's covenants or duties or in order to secure the payment of its bonds, provided no encumbrance, mortgage or other pledge of property (excluding any money) of the municipality is created thereby, and provided no property (excluding money) of the municipality is liable to be forfeited or taken in payment of such bonds.

Sec. 6. NRS 271.308 is hereby amended to read as follows:

271.308 Except as otherwise provided in NRS 271.475 ~~††~~ ***and paragraph ~~(c)~~ (a) of subsection 2 of section 2 of this act:***

1. When expressly authorized by a provision of this chapter and the conditions of paragraph (a) or (b), or both, of subsection 2 of NRS 271.306 are satisfied, an ordinance required by this chapter may be adopted or amended as if an emergency existed.

2. The governing body's declaration, if any, in any ordinance that it is such an ordinance is conclusive in the absence of fraud or gross abuse of discretion.

3. Such an ordinance may become effective at any time when an emergency ordinance of the municipality may go into effect.

4. Such an ordinance may be adopted by an affirmative vote of not less than two-thirds of all the voting members of the governing body, excluding from any such computation any vacancy on the governing body and any member thereon who may vote only to break a tie vote.

Sec. 7. NRS 271.310 is hereby amended to read as follows:

271.310 1. On the date and at the place fixed for the hearing any and all property owners interested in the project may present their views in respect to the proposed projects to the governing body. The governing body may adjourn the hearing from time to time.

2. After the hearing has been concluded, after all written complaints, protests and objections have been read and considered, and after all persons desiring to be heard in person have been heard, the governing body shall consider the arguments, if any, and any other relevant material put forth, and shall ***, except as otherwise provided in paragraph (a) of subsection 3 of section 2 of this act,*** by resolution or ordinance, as the board determines, pass upon the merits of each such complaint, protest or objection.

3. If the governing body determines that it is not for the public interest that the proposed project, or a part of the project, be made, the governing

body shall , *except as otherwise provided in paragraph (a) of subsection 3 of section 2 of this act*, make an order by resolution to that effect, and thereupon the proceedings for the project, or the part of the project determined against by the order, must stop and must not be begun again until the adoption of a new resolution.

4. Any complaint, protest or objection to:

(a) The propriety of acquiring or improving or acquiring and improving the project;

(b) The estimated cost of the project;

(c) The determination concerning the portion of the cost of the project to be paid by assessments;

(d) The method used to estimate the special benefits to be derived from the project generally or by any tract in the assessment area;

(e) The basis established for apportionment of the assessments; or

(f) The regularity, validity and correctness of any other proceedings or instruments taken, adopted or made before the date of the hearing,

➡ shall be deemed waived unless presented in writing at the time and in the manner provided by NRS 271.305.

Sec. 8. NRS 271.360 is hereby amended to read as follows:

271.360 1. ~~After~~ *Except as otherwise provided in paragraph (a) of subsection 3 of section 2 of this act*, after the making of any construction contract, or after the determination of the net cost to the municipality, but not necessarily after the completion of the project, the governing body, by resolution or by a document prepared by the engineer and ratified by the governing body, shall:

(a) Determine the cost of the project to be paid by the assessable property in the improvement district.

(b) Order the engineer to make out an assessment roll, or ratify his or her roll already made, containing, among other things:

(1) The name of each last known owner of each tract to be assessed, or if not known, that the name is "unknown."

(2) A description of each tract to be assessed, and the amount of the proposed assessment thereon, apportioned upon the basis for assessments stated in the provisional order for the hearing on the project.

(c) Cause a copy of the resolution or ratified document to be furnished by the clerk to the engineer.

2. In fixing the amount or sum of money that may be required to pay the costs of the project, the governing body need not necessarily be governed by the estimates of the costs of such project provided for herein, but the governing body may fix such other sum, within the limits prescribed, as it may deem necessary to cover the cost of such project.

3. Before ordering the engineer to make out an assessment roll or ratifying his or her roll already made, the governing body shall consider all applications for hardship determinations and the recommendations made by the social services agency and make a final decision on each application. The

governing body shall direct the engineer to postpone the assessments on property for which a hardship determination has been finally approved. A property owner whose hardship determination is approved shall pay interest on the unpaid balance of previous and current assessments at the same rate and terms as are established for other assessments in the manner provided by the governing body. The assessment must remain postponed until the earlier of the following occurrences:

- (a) The property is sold or transferred to a person other than one to whom a hardship determination has been granted;
- (b) The term of the bonds expires;
- (c) The property owner's application for renewal of the hardship determination is disapproved;
- (d) The property owner fails to pay the interest on the unpaid balance of assessments in a timely manner; or
- (e) The property owner pays all previous and current assessments.

4. A property owner may pay all previous and current assessments at any time before they become due without penalty.

5. The governing body shall not sell bonds on the basis of the assessments for which hardship determinations have been approved. A special fund for the payment of the costs of the project assessed against property for which hardship determinations have been made must be created. The fund must be reimbursed when the balance of unpaid assessments are paid, including all interest paid during the period of postponement. The surplus and deficiency fund established pursuant to NRS 271.428 may be used as the special fund.

6. If by mistake or otherwise any person is improperly designated in the assessment roll as the owner of any tract, or if the same is assessed without the name of the owner, or in the name of a person other than the owner, such assessment shall not for that reason be vitiated but shall, in all respects, be as valid upon and against such tract as though assessed in the name of the owner thereof; and when the assessment roll has been confirmed, such assessment shall become a lien on such tract and be collected as provided by law.

Sec. 9. NRS 271.390 is hereby amended to read as follows:

271.390 1. ~~After~~ ***Except as otherwise provided in paragraph (a) of subsection 3 of section 2 of this act, after*** the assessment roll is in final form and is so confirmed by resolution, the municipality by ordinance shall, by reference to the assessment roll, as modified if modified, and as confirmed by the resolution, levy the assessments in the roll. This ordinance may be adopted or amended as if an emergency existed.

2. Written notice of the levy of assessment must be given by mail to the owners of all the property upon which the assessment was levied.

3. The decision, resolution and ordinance are a final determination of the regularity, validity and correctness of the proceedings, of the assessment roll, of each assessment contained therein, and of the amount thereof levied on each tract and parcel of land.

4. The determination by the governing body is conclusive upon the owners of the property assessed.

5. The roll, when endorsed by the clerk as the roll designated in the assessment ordinance, is prima facie evidence in all courts and tribunals of the regularity of all proceedings preliminary to the making thereof and the validity of the assessments and the assessment roll.

Sec. 10. NRS 271.430 is hereby amended to read as follows:

271.430 ~~Should~~

1. Except as otherwise provided in subsection 2, should any assessment prove insufficient to pay for the project or work for which it is levied and the expense incident thereto, the amount of the deficiency must be paid from the general fund of the municipality to the extent that money is not available for its payment from the surplus and deficiency fund.

2. A municipality may not use any assets in its general fund to pay a deficiency described in subsection 1 that is related to a renewable energy project or an energy efficiency improvement project acquired or improved pursuant to section 2 of this act.

Sec. 11. NRS 271.495 is hereby amended to read as follows:

271.495 **1. Except as otherwise provided in subsection 2:**

(a) If the special fund created by the proceeds of the assessments is insufficient to pay such bonds and interest thereon as they become due and the amounts in the surplus and deficiency fund are not sufficient for that purpose, the deficiency must be paid out of any assets in the general fund of the municipality, regardless of source, which are otherwise legally available therefor.

~~{2-}~~ **(b)** If the general fund is insufficient to pay any such deficiency promptly, the governing body shall levy general (ad valorem) taxes upon all property in the municipality which is by law taxable for state, county and municipal purposes, without regard to any statutory or charter tax limitation existing on or after May 14, 1965, and without limitation as to rate or amount, fully sufficient, after making due allowance for probable delinquencies, to provide for the prompt payment of such bonds as they become due, both principal and interest, but subject to the limitations set forth in NRS 361.453 and Section 2 of Article 10 of the Nevada Constitution.

2. A municipality may not use any assets in its general fund to pay a deficiency of a special fund created by the proceeds of the assessments for a renewable energy project or an energy efficiency improvement project acquired or improved pursuant to section 2 of this act.

Sec. 12. This act becomes effective on July 1, 2011.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

Amendment No. 343 to Senate Bill No. 260 adds the term "or an energy efficiency improvement project" throughout the bill.

This addition would provide that the Local Improvement District (LID) could be created for "a renewable energy project or an energy efficiency improvement project" and secondly removes provisions in the bill that would have allowed the governing body to amend the ordinance creating the LID to provide for the redistribution of assessments of the LID.

There was some discussion in Committee about properties being able to move in and out of the LID. This amendment would eliminate that possibility.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 261.

Bill read second time.

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

Amendment No. 342.

"SUMMARY—Makes various changes relating to the reorganization or combination and reorganization of certain fire protection districts. (BDR 42-836)"

"AN ACT relating to fire protection districts; setting forth the notice requirements for certain hearings held by certain boards of county commissioners regarding the reorganization or combination and reorganization of certain fire protection districts; requiring, under certain circumstances, ~~the board~~ certain boards of county commissioners to submit the question of whether to reorganize or combine and reorganize certain fire protection districts to the electors of the districts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a fire protection district may be formed by: (1) an affirmative vote by the electors of the territory included in a proposed district; or (2) an ordinance adopted by the board of county commissioners of the county in which the fire protection district is located. (NRS 474.010-474.120, 474.460) The powers and duties of a fire protection district created by election differ from the powers and duties of a fire protection district created by a board of county commissioners. (NRS 474.160-474.450, 474.460-474.540) Under certain circumstances, a board of county commissioners may reorganize a fire protection district that was created by the board. Upon reorganization, the fire protection district has the same powers and duties as a fire protection district originally created by election. (NRS 474.535)

This bill ~~requires a~~ provides, in a county whose population is 700,000 or more (currently Clark County), for the reorganization of a fire protection district that has been in existence for at least 2 years or the combination and reorganization of two or more fire protection districts that have been in existence for at least 2 years. For such a reorganization or combination and reorganization, the board of county commissioners ~~to~~ must provide notice of the board's hearing to consider the reorganization ~~of a fire protection district that was created by the board.~~ or

combination and reorganization. Such notice must be published in a newspaper of general circulation once a week for 3 weeks. If a board of county commissioners does not adopt an ordinance reorganizing the fire protection district **or combining and reorganizing the fire protection districts** after the hearing, this bill requires the board to submit the issue of reorganization **or combination and reorganization** to the electors of the fire protection district **or districts** at the next primary or general election.

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

Section 1. Chapter 474 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a county whose population is 700,000 or more:

(a) A fire protection district established pursuant to NRS 474.460 to 474.540, inclusive, which has been in existence for at least 2 years may be reorganized as a fire protection district subject to the provisions of NRS 474.010 to 474.450, inclusive, in the manner provided in this section; and

(b) Two or more fire protection districts established pursuant to NRS 474.460 to 474.540, inclusive, which have been in existence for at least 2 years may combine and be reorganized as one fire protection district subject to the provisions of NRS 474.010 to 474.450, inclusive, in the manner provided in this section.

2. The reorganization of a district or the combination and reorganization of districts may be initiated by:

(a) A petition signed by at least a majority of the owners of property located within the district or districts; or

(b) A resolution of the board of county commissioners of the county in which the district or districts are located.

3. If reorganization or combination and reorganization is initiated pursuant to subsection 2, the board of county commissioners shall:

(a) Fix a time and place for a hearing on the matter; and

(b) Direct the clerk of the board of county commissioners to publish the notice of the proposed reorganization or proposed combination and reorganization, and of the time and place fixed for the hearing. The board shall designate that publication must be once a week for at least 3 weeks in a newspaper of general circulation published in the county and circulated in the district or districts, or if there is no newspaper so published and circulated, in a newspaper of general circulation circulated in the district or districts.

4. After notice and a hearing, the board of county commissioners may adopt an ordinance reorganizing the district or combining and reorganizing the districts, as applicable.

5. If the board of county commissioners does not adopt an ordinance pursuant to subsection 4, the board shall submit the question of whether the district shall be reorganized or whether the districts shall be combined

and reorganized, as applicable, to the electors of the district or districts at the next primary or general election. Notice of the election must be published once a week for at least 3 weeks before the election in a newspaper of general circulation published in the county and circulated in the district or districts or, if there is no newspaper so published and circulated, in a newspaper of general circulation circulated in the district or districts.

6. If, upon the canvass of the vote, it appears that a majority of all votes cast in the district or districts are in favor of the reorganization of the district or the combination and reorganization of the districts, as applicable, the board of county commissioners shall adopt an ordinance reorganizing the district or combining and reorganizing the districts, as applicable.

7. The ordinance adopted pursuant to subsection 4 or 6, as applicable, must include the name and boundaries of the reorganized district.

8. The board shall cause a copy of the ordinance, certified by the clerk of the board of county commissioners, to be filed immediately for record in the office of the county recorder.

9. The reorganization of the district or the combination and reorganization of the districts is complete upon the filing of the ordinance pursuant to this section. The reorganized district thereafter is subject to the provisions of NRS 474.010 to 474.450, inclusive. Upon the completion of the reorganization of the district or the combination and reorganization of the districts, the reorganized district shall assume the debts, obligations, liabilities and assets of the former district or districts.

10. The board of county commissioners shall:

(a) Make an order dividing the reorganized district into election precincts, or providing for the election of directors at large, in the manner provided in NRS 474.070.

(b) Appoint the initial members of the board of directors of the reorganized district to terms established in the manner provided in NRS 474.130. Each director must be a resident of the precinct, if any, for which the director is appointed and serves until a successor is elected and qualified.

~~{Section 1.}~~ Sec. 2. NRS 474.535 is hereby amended to read as follows:

474.535 1. ~~{A.}~~ In a county whose population is less than 700,000, a fire protection district established pursuant to NRS 474.460 to 474.540, inclusive, **and section 1 of this act,** which has been in existence for at least 10 years, may be reorganized as a fire protection district subject to the provisions of NRS 474.010 to 474.450, inclusive, in the manner provided in this section.

2. The reorganization of such a district may be initiated by:

(a) A petition signed by at least a majority of the owners of property located within the district; or

(b) A resolution of the board of county commissioners of the county in which the district is located.

3. If ~~, after reorganization is initiated pursuant to subsection 2, the board of county commissioners shall:~~

~~(a) Fix a time and place for a hearing on the matter; and~~

~~(b) Direct the clerk of the board of county commissioners to publish the notice of the proposed reorganization, and of the time and place fixed for the hearing. The board shall designate that publication must be once a week for at least 3 weeks in a newspaper of general circulation published in the county and circulated in the district, or if there is no newspaper so published and circulated, then in a newspaper of general circulation circulated in the district.~~

~~4. After~~ notice and a hearing, the board of county commissioners determines that the reorganization of the district is in the best interests of the county and the district, it shall ~~may~~ adopt an ordinance reorganizing the district.

~~5. If the board of county commissioners does not adopt an ordinance pursuant to subsection 4 that reorganizes the district, the board shall submit the question of whether the district shall be reorganized to the electors of the district at the next primary or general election. Notice of the election must be published once a week for at least 3 weeks before the election in a newspaper of general circulation published in the county and circulated in the district, or if there is no newspaper so published and circulated, then in a newspaper of general circulation circulated in the district.~~

~~6. If, upon the canvass of the vote, it appears that a majority of all votes cast in the district are in favor of the reorganization of the district, the board of county commissioners shall adopt an ordinance reorganizing the district.~~

~~7. The ordinance adopted pursuant to subsection 4 or 6, as applicable,~~ must include the name and boundaries of the district.

~~8.~~ The board shall cause a copy of the ordinance, certified by the clerk of the board of county commissioners, to be filed immediately for record in the office of the county recorder.

~~9.~~ The reorganization of the district is complete upon the filing of the ordinance pursuant to this section. The district thereafter is subject to the provisions of NRS 474.010 to 474.450, inclusive. Upon the completion of the reorganization of the district, the district shall assume the debts, obligations, liabilities and assets of the former district.

~~10.~~ The board of county commissioners shall:

(a) Make an order dividing the district into election precincts, or providing for the election of directors at large, in the manner provided in NRS 474.070.

(b) Appoint the initial members of the board of directors of the district to terms established in the manner provided in NRS 474.130. Each director must be a resident of the precinct, if any, for which the director is appointed, and serves until a successor is elected and qualified.

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

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

Amendment No. 342 to Senate Bill No. 261 provides that the existing language in NRS 474.535 regarding the reorganization of a fire protection district apply to counties whose population is 100,000 or less.

It provides that in Clark County, a fire protection district, which has been in existence for at least two years, may be reorganized.

It provides that two or more fire protection districts that have been in existence for two or more years may be combined and reorganized into one fire protection district.

It also adds language setting forth the procedure for reorganization, including: (1) how it may be initiated; (2) public notice requirements; (3) public hearing procedures; (4) the adoption of an ordinance by the Board of County Commissioners; (5) the placement of the reorganization question on the ballot if the Board does not adopt such an ordinance; and (6) the appointment and election of district directors to the reorganized fire protection district; and specifies that the bill is only applicable to Clark County.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 276.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 469.

"SUMMARY—Revises provisions governing safe and respectful learning environments in public schools. (BDR 34-643)"

"AN ACT relating to education; revising provisions governing safe and respectful learning environments in public schools; requiring the Department of Education to establish **and recommend** training programs for members of the State Board of Education, boards of trustees of school districts, ~~{anti-bullying school district coordinators and anti-bullying school specialists}~~ **and school district personnel** on the prevention of bullying, cyber-bullying, harassment and intimidation in public schools; ~~{requiring the Department of Education to assign a grade to each school district and public school based upon certain reports on incidents of bullying, cyber-bullying, harassment and intimidation in public schools;}~~ creating the Bullying Prevention Fund in the State General Fund; ~~{requiring the board of trustees of each school district to appoint an anti-bullying school district coordinator;}~~ requiring the principal of each public school to ~~{appoint an anti-bullying school specialist and}~~ **establish** a school safety team; authorizing a parent or legal guardian of a pupil involved in an incident of bullying, cyber-bullying, harassment or intimidation to appeal a **disciplinary** decision of the ~~{superintendent of schools of a school district or the board of trustees of a school district}~~ **principal made against the pupil** concerning the incident; ~~{requiring applicants for a license to teach and certain licensed teachers to complete course work in the prevention of bullying, cyber-bullying, harassment and}~~

~~intimidation in public schools;~~ revising provisions governing the grounds for disciplinary action against teachers and administrators; ~~encouraging private schools to adopt policies governing safe and respectful learning environments; authorizing the Board of Regents of the University of Nevada to adopt a policy prohibiting bullying, cyber-bullying, harassment and intimidation;~~ requiring the Governor to annually proclaim the first week in October to be "Week of Respect"; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a safe and respectful learning environment in public schools, which includes, without limitation, a prohibition on bullying, cyber-bullying, harassment and intimidation in public schools, the provision of training to school personnel and the reporting of incidents of bullying, cyber-bullying, harassment and intimidation in public schools. (NRS 388.121-388.139) ~~{This bill makes various revisions to those provisions and is modeled after the "Anti Bullying Bill of Rights Act" enacted by the State of New Jersey on January 5, 2011. (2010 N.J. Laws 122)}~~

Sections 1-3 of this bill revise the components of the annual reports of accountability prepared by the State Board of Education and the boards of trustees of school districts to include reports on incidents ~~that~~ **resulting in suspension or expulsion for** bullying, cyber-bullying, harassment and intimidation.

Section 7 of this bill requires the Department of Education to develop an informational pamphlet to assist pupils and the parents or legal guardians of pupils in resolving incidents of bullying, cyber-bullying, harassment and intimidation.

Section 8 of this bill requires the Department to establish a program of training on the prevention of bullying, cyber-bullying, harassment and intimidation for ~~the~~ **(1) members of the State Board** ~~and~~ **(2) and to recommend a program of training for** members of the boards of trustees of school districts ~~and (3) persons who are appointed as anti-bullying school district coordinators and anti-bullying school specialists.~~ **and school district personnel.** **Section 8 also :** **(1) requires** ~~the~~ **each member of the State Board and** **authorizes** each member of a board of trustees to complete the training program ~~within 1 year after the member is elected or appointed; and (2) each anti bullying school district coordinator and anti bullying school specialist ; and (2) authorizes the board of trustees of the school district to allow school district personnel to complete~~ **attend** the program ~~before the commencement of his or her duties in that position.~~ **during regular school hours.**

Section 9 of this bill creates the Bullying Prevention Fund in the State General Fund to be administered by the Superintendent of Public Instruction. **Section 9** also authorizes school districts to apply to the State Board for a grant of money from the Fund, which must be used to establish programs,

provide training and implement procedures that create a school environment which is free from bullying, cyber-bullying, harassment and intimidation.

~~Section 10 of this bill requires the board of trustees of each school district to appoint an employee of the school district to serve as the anti bullying school district coordinator and prescribes the duties of the coordinator.~~

~~Sections 11 and 12 of this bill require~~ **requires** the principal of each public school **or his or her designee** to ~~appoint an anti bullying school specialist and~~ **;(1) establish** a school safety team ~~and prescribes their qualifications and duties.~~ **;(2) conduct investigations of reported incidents of bullying, cyber-bullying, harassment and intimidation; and (3) collaborate with the board of trustees of the school district and the school safety team to prevent, identify and address reported incidents of bullying, cyber-bullying, harassment and intimidation. Section 12 of this bill prescribes the qualifications and duties of the school safety team.**

Section 13 of this bill requires the principal of each public school to submit to the board of trustees of the school district a report on the number of incidents of bullying, cyber-bullying, harassment and intimidation occurring at the school or involving a pupil enrolled at the school during the previous school semester. Section 13 also requires the board of trustees to submit to the Department a compilation of the reports. ~~Section 13 further requires the Department to assign a grade to each school district and each public school based upon the report.~~

Section 14 of this bill requires a teacher or other staff member of a school who witnesses a violation of the prohibition on bullying, cyber-bullying, harassment and intimidation occurring at the school or who receives information of such a violation to **verbally** report the violation to the principal ~~or~~ **or the principal's designee**. Section 14 also requires the principal **or the principal's designee** to initiate an investigation of the reported violation ~~which must be conducted by the anti bullying school specialist and to submit a report of his or her recommendations to the superintendent of schools of the school district. A~~ **and provides that a parent or legal guardian of a pupil involved in the reported violation may appeal the a disciplinary decision of the superintendent of schools to principal or the principal's designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by** the board of trustees of the school district.

~~Sections 15 and 16 of this bill authorize a parent or legal guardian of a pupil involved in a reported violation of an incident of bullying, cyber bullying, harassment or intimidation to appeal a decision of the board of trustees of a school district to the State Board.~~

Section 17 of this bill requires the board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district, to establish a policy for the procedures which must be followed by an employee of the school district when reporting a violation of the prohibition

of bullying, cyber-bullying, harassment and intimidation to a school police officer or local law enforcement agency.

~~† Section 27 of this bill requires applicants for a license to teach and licensed teachers to complete a course in the prevention of bullying, cyber bullying, harassment or intimidation in schools.†~~

Section 28 of this bill revises the grounds for which a teacher or administrator may be demoted, suspended, dismissed or not reemployed to include an intentional failure to report a violation of the prohibition of bullying, cyber-bullying, harassment and intimidation. ~~†Section 28 also provides that a principal may be demoted, suspended, dismissed or not reemployed for intentional failure to initiate or conduct an investigation into a reported incident of bullying, cyber-bullying, harassment or intimidation or failure to take appropriate action if he or she should have known of the violation.†~~

~~Section 30 of this bill encourages the private schools of this State to adopt policies and programs consistent with the provisions governing a safe and respectful learning environment in public schools to prevent bullying, cyber-bullying, harassment or intimidation in private schools.~~

~~Section 31 of this bill authorizes the Board of Regents of the University of Nevada to adopt a policy to provide a safe and respectful learning environment that is free from bullying, cyber-bullying, harassment and intimidation in a university, state college or community college within the Nevada System of Higher Education.†~~

Existing law sets forth certain days of observance in this State to commemorate certain persons or occasions or to publicize information regarding certain important topics. (Chapter 236 of NRS) **Section 32** of this bill requires the Governor to annually proclaim the first week in October to be "Week of Respect."

WHEREAS, Bullying is an aggressive behavior that is associated with violent behaviors such as carrying weapons, fighting, vandalism, theft and suicide; and

WHEREAS, Recent studies showed that 32 percent of children reported being bullied at school and 4 percent of children reported being cyber-bullied during the school year; and

WHEREAS, Children who are bullied are more likely than children who are not bullied to be depressed, lonely and anxious, to have low self-esteem and to contemplate suicide; and

WHEREAS, Research has shown that bullying can be a sign of other antisocial or violent behavior and children who bully other children are more likely to be truant from school or to drop out of school; and

WHEREAS, Acts of bullying create a school environment that negatively impacts the ability of children to learn not only for the children who are the victims of such acts but also for the children who witness those acts; and

WHEREAS, Improving the methods and procedures by which acts of bullying, cyber-bullying, harassment and intimidation are prevented,

reported, investigated and responded to by the State Board of Education, the school districts in this State and the individual schools will help identify such acts and allow children who are the victims of such acts to receive help in dealing with the emotional and physical impacts of bullying, cyber-bullying, harassment and intimidation; now therefore,

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

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

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

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

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

(c) 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.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made:

(1) Adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(2) Progress based upon the model adopted by the Department pursuant to NRS 385.3595, if applicable for the grade level of pupils enrolled at the school.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, 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, in this State 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, in this State 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.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) 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, reported for each school district, including, without limitation, each charter school in the district, and for this State 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.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a 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.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

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

(y) The percentage of pupils who graduated from a 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, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, 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.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.

(cc) The number of habitual truants who are reported to a school police officer or local 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, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, 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 programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

(gg) For each school district, including, without limitation, each charter school in the district and for this State as a whole, 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.

~~(hh) The number of [reported violations of NRS 388.135 and a description of each violation.] incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, reported for each school district, including, without limitation, each charter school in the district, and for the State as a whole.~~

2. A separate reporting for a group of pupils must not be made pursuant to this section 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 a mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

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

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) ***"Bullying" has the meaning ascribed to it in NRS 388.122.***

(b) ***"Cyber-bullying" has the meaning ascribed to it in NRS 388.123.***

(c) ***"Harassment" has the meaning ascribed to it in NRS 388.125.***

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

~~(b)~~ ***(e) "Intimidation" has the meaning ascribed to it in NRS 388.129.***

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

Sec. 2. NRS 385.34692 is hereby amended to read as follows:

385.34692 1. The State Board shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.3469 that includes, without limitation, a summary of the following information for each school district, each charter school and the State as a whole:

(a) Demographic information of pupils, including, without limitation, the number and percentage of pupils:

- (1) Who are economically disadvantaged, as defined by the State Board;
- (2) Who are from major racial or ethnic groups, as defined by the State Board;
- (3) With disabilities;
- (4) Who are limited English proficient; and
- (5) Who are migratory children, as defined by the State Board;

(b) The average daily attendance of pupils, reported separately for the groups identified in paragraph (a);

(c) The transiency rate of pupils;

(d) The percentage of pupils who are habitual truants;

(e) The percentage of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655;

(f) The number of incidents resulting in suspension or expulsion for:

- (1) Violence to other pupils or to school personnel;
- (2) Possession of a weapon;
- (3) Distribution of a controlled substance;
- (4) Possession or use of a controlled substance; ~~and~~
- (5) Possession or use of alcohol; *and*

(6) Bullying, cyber-bullying, harassment or intimidation;

(g) For kindergarten through grade 8, the number and percentage of pupils who are retained in the same grade;

(h) For grades 9 to 12, inclusive, the number and percentage of pupils who are deficient in the number of credits required for promotion to the next grade or graduation from high school;

(i) The pupil-teacher ratio for kindergarten and grades 1 to 8, inclusive;

(j) The average class size for the subject area of mathematics, English, science and social studies in schools where pupils rotate to different teachers for different subjects;

(k) The number and percentage of pupils who graduated from high school;

(l) The number and percentage of pupils who received a:

- (1) Standard diploma;
- (2) Adult diploma;
- (3) Adjusted diploma; and
- (4) Certificate of attendance;

(m) The number and percentage of pupils who graduated from high school and enrolled in remedial courses at the Nevada System of Higher Education;

- (n) Per pupil expenditures;
 - (o) Information on the professional qualifications of teachers;
 - (p) The average daily attendance of teachers and licensure information;
 - (q) Information on the adequate yearly progress of the schools and school districts;
 - (r) Pupil achievement based upon the:
 - (1) Examinations administered pursuant to NRS 389.550, including, without limitation, whether public schools have made progress based upon the model adopted by the Department pursuant to NRS 385.3595; and
 - (2) High school proficiency examination;
 - (s) To the extent practicable, pupil achievement based upon the examinations administered pursuant to NRS 389.015 for grades 4, 7 and 10; and
 - (t) 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)(1) and the regulations adopted pursuant thereto;
 - (b) Be prepared in a concise manner; and
 - (c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.
3. On or before September 7 of each year, the State Board shall:
- (a) Provide for public dissemination of the summary prepared pursuant to subsection 1 by posting the summary on the Internet website maintained by the Department; and
 - (b) Submit a copy of the summary in an electronic format to the:
 - (1) Governor;
 - (2) Committee;
 - (3) Bureau;
 - (4) Board of Regents of the University of Nevada;
 - (5) Board of trustees of each school district; and
 - (6) Governing body of each charter school.
4. The board of trustees of each school district and the governing body of each charter school shall ensure that the parents and guardians of pupils enrolled in the school district or charter school, as applicable, have sufficient information concerning the availability of the summary prepared by the State Board pursuant to subsection 1, including, without limitation, information that describes how to access the summary on the Internet website maintained by the Department. Upon the request of a parent or guardian of a pupil, the Department shall provide the parent or guardian with a written copy of the summary.
5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.
- 6. As used in this section:**
- (a) *"Bullying" has the meaning ascribed to it in NRS 388.122.*

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

(c) "Harassment" has the meaning ascribed to it in NRS 388.125.

(d) "Intimidation" has the meaning ascribed to it in NRS 388.129.

Sec. 3. 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 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. 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 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 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 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 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 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 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 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 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 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 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 the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in 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 the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in 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 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 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 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 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 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 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 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, 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 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 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 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 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 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 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 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) ~~The number of [reported violations of NRS 388.135 and a description of each violation.]~~ **incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.**

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

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 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. The annual report of accountability prepared pursuant to subsection 2 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. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts 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,

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

6. 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. On or before August 15 of each year, 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. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, 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 for public dissemination of the annual report of accountability prepared pursuant to subsection 2 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, 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 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 the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) **"Bullying" has the meaning ascribed to it in NRS 388.122.**

(b) **"Cyber-bullying" has the meaning ascribed to it in NRS 388.123.**

(c) **"Harassment" has the meaning ascribed to it in NRS 388.125.**

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

~~(e)~~ (e) **"Intimidation" has the meaning ascribed to it in NRS 388.129.**

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

Sec. 4. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 18, inclusive, of this act.

Sec. 5. ~~["Anti bullying school district coordinator" means the person appointed by the board of trustees of each school district pursuant to section 10 of this act.]~~ **(Deleted by amendment.)**

Sec. 6. ~~["Anti bullying school specialist" means the person appointed by the principal of each public school pursuant to section 11 of this act.]~~ **(Deleted by amendment.)**

Sec. 7. 1. *The Department, in consultation with persons who possess knowledge and expertise in bullying, cyber-bullying, harassment and intimidation in public schools, shall develop an informational pamphlet to assist pupils and the parents or legal guardians of pupils enrolled in the public schools in this State in resolving incidents of bullying, cyber-bullying, harassment or intimidation. The pamphlet must include, without limitation:*

(a) A summary of the policy prescribed by the Department pursuant to NRS 388.133 and the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act;

(b) A description of practices which have proven effective in preventing and resolving violations of NRS 388.135 in schools, which must include, without limitation, methods to identify and assist pupils who are at risk for bullying, cyber-bullying, harassment or intimidation; and

(c) An explanation that the parent or legal guardian of a pupil who is involved in a reported violation of NRS 388.135 may request an appeal of a disciplinary decision ~~for~~

~~*(1) The superintendent of schools of a school district concerning a violation of NRS 388.135 to the board of trustees of the school district pursuant to section 15 of this act; and*~~

~~*(2) The board of trustees of a school district to the State Board pursuant to section 16 of this act.]*~~ **made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.**

2. *The Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as the Department determines are necessary to ensure the pamphlet contains current information.*

3. *The Department shall post a copy of the pamphlet on the Internet website maintained by the Department.*

4. *To extent the money is available, the Department shall develop a tutorial which must be made available on the Internet website maintained by the Department that includes, without limitation, the information contained in the pamphlet developed pursuant to subsection 1.*

Sec. 8. 1. *The Department, in consultation with persons who possess knowledge and expertise in bullying, cyber-bullying, harassment and intimidation in public schools, shall:*

(a) Establish a program of training on methods to prevent, identify and report incidences of bullying, cyber-bullying, harassment and intimidation in public schools for members of the State Board.

(b) ~~Establish~~ Recommend a program of training on methods to prevent, identify and report incidences of bullying, cyber-bullying, harassment and intimidation in public schools for members of the boards of trustees of school districts.

(c) ~~Establish~~ Recommend a program of training for ~~the persons appointed as anti-bullying school specialists and anti-bullying school district coordinators~~ school district personnel to assist those persons with carrying out their powers and duties pursuant to NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act.

2. Each member of the State Board shall, within 1 year after the member is elected or appointed to the State Board, complete the program of training on bullying, cyber-bullying, harassment and intimidation in public schools established pursuant to paragraph (a) of subsection 1 and undergo the training at least one additional time while the person is a member of the State Board.

3. Each member of a board of trustees of a school district ~~shall, within 1 year after the member is elected or appointed to the board of trustees,~~ may complete the program of training on bullying, cyber-bullying, harassment and intimidation in public schools ~~established~~ recommended pursuant to paragraph (b) of subsection 1 and may undergo the training at least one additional time while the person is a member of the board of trustees.

4. ~~Each anti-bullying school specialist and anti-bullying school district coordinator shall complete the program of training established pursuant to paragraph (c) of subsection 1 before commencing his or her duties in that position.~~

~~5.~~ Each program of training established and recommended pursuant to subsection 1 must, to the extent money is available, be made available on the Internet website maintained by the Department or through another provider on the Internet.

~~6.~~ 5. The board of trustees of a school district ~~shall~~ may allow ~~a person appointed as an anti-bullying school specialist or an anti-bullying school district coordinator~~ school district personnel to attend the program ~~established~~ recommended pursuant to paragraph (c) of subsection 1 during regular school hours.

~~7.~~ 6. The Department shall review each program of training established and recommended pursuant to subsection 1 on an annual basis to ensure that the program contains current information concerning the prevention of bullying, cyber-bullying, harassment and intimidation.

Sec. 9. 1. The Bullying Prevention Fund is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants from any source for deposit into the Fund. The interest and income earned on the money in the Fund must be credited to the Fund.

2. In accordance with the regulations adopted by the State Board pursuant to section 18 of this act, a school district that applies for and receives a grant of money from the Bullying Prevention Fund shall use the money for one or more of the following purposes:

(a) The establishment of programs to create a school environment that is free from bullying, cyber-bullying, harassment and intimidation;

(b) The provision of training on the policies adopted by the school district pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act; or

(c) The development and implementation of procedures by which the public schools of the school district and the pupils enrolled in those schools can discuss the policies adopted pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act.

Sec. 10. ~~1. The board of trustees of each school district shall appoint an employee of the school district to serve as the anti bullying school district coordinator.~~

~~2. The anti bullying school district coordinator shall:~~

~~(a) Coordinate and improve the policies adopted by the school district pursuant to NRS 388.134 to prevent, identify and address reported violations of NRS 388.135 in the public schools within the school district;~~

~~(b) Collaborate with each anti bullying school specialist in the school district, the board of trustees of the school district, the superintendent of schools of the school district and the school safety team to prevent, identify and address reported violations of NRS 388.135;~~

~~(c) Assist the principals and anti bullying school specialists at the public schools within the school district with investigations of reported violations of NRS 388.135 which are conducted pursuant to section 14 of this act;~~

~~(d) Assist the board of trustees of the school district with investigations which are necessary to prepare for hearings held pursuant to section 15 of this act;~~

~~(e) In consultation with the superintendent of schools of the school district, provide data to the Department regarding reported violations of NRS 388.135 in the public schools within the school district;~~

~~(f) Perform any other duties required by the board of trustees of the school district regarding bullying, cyber-bullying, harassment and intimidation in the public schools within the school district; and~~

~~(g) Meet with each anti bullying school specialist within the school district at least two times each year to discuss and strengthen the policies adopted by the school district pursuant to NRS 388.134 to prevent, identify and address bullying, cyber-bullying, harassment and intimidation in the public schools within the school district. (Deleted by amendment.)~~

Sec. 11. ~~1. The principal of each public school shall appoint a school counselor, school psychologist or other person who is similarly qualified and who is currently employed at the school to serve as the~~

~~anti-bullying school specialist. If the public school does not currently employ a school counselor, school psychologist or other person who is similarly qualified, the principal shall appoint another school employee to serve as the anti-bullying school specialist.~~

~~2. The anti-bullying school specialist~~ or his or her designee shall:

~~f (a) Serve as the chair of the~~

1. Establish a school safety team ~~festablished pursuant to section 12 of this act;~~

~~(b) to develop, foster and maintain a school environment which is free from bullying, cyber-bullying, harassment and intimidation;~~

2. Conduct investigations of violations of NRS 388.135 occurring at the school; and

~~f(c) 3. Collaborate with the anti-bullying~~ board of trustees of the school district ~~fcoordinator~~ and the school safety team to prevent, identify and address reported violations of NRS 388.135 at the school.

Sec. 12. 1. Each ~~public school shall establish a school safety team to develop, foster and maintain a school environment which is free from bullying, cyber-bullying, harassment and intimidation. The~~ school safety team established pursuant to section 11 of this act must consist of the principal or his or her designee and the following persons appointed by the principal:

(a) ~~fThe anti-bullying school specialist;~~ A school counselor;

(b) At least one teacher who teaches at the school;

(c) At least one parent or legal guardian of a pupil enrolled in the school; and

(d) Any other persons appointed by the principal.

2. The anti-bullying school specialist principal or his or her designee shall serve as the chair of the school safety team.

3. The school safety team shall:

(a) Meet at least two times each year;

~~(b) fReview any reported violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled in the school;~~

~~(c) Review any reports of the results of investigations conducted into reported violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled in the school;~~

~~(d) Identify and address patterns of bullying, cyber-bullying, harassment or intimidation at the school;~~

~~f(e) (c) Review and strengthen school policies to prevent and address bullying, cyber-bullying, harassment or intimidation;~~

~~f(f) (d) Provide information to school personnel, pupils enrolled in the school and parents and legal guardians of pupils enrolled in the school on methods to address bullying, cyber-bullying, harassment and intimidation;~~

~~f(g) Participate~~ and

(e) To the extent money is available, participate in any training conducted by the school district regarding bullying, cyber-bullying, harassment and intimidation.~~¶~~

~~(h) Collaborate with the anti bullying school district coordinator and the anti bullying school specialist to collect data and develop policies to prevent and address bullying, cyber bullying, harassment and intimidation in the public schools; and~~

~~(i) Perform any other duties related to bullying, cyber bullying, harassment and intimidation at the request of the principal or the anti bullying school district coordinator.~~

~~4. A school safety team shall maintain the confidentiality of any information received by the school safety team which contains personally identifiable information about an individual pupil.~~

Sec. 13. 1. On or before January 1 and June 30 of each year, the principal of each public school shall submit to the board of trustees of the school district ~~[and the school safety team established pursuant to section 12 of this act]~~ a report on the violations of NRS 388.135 which are reported during the previous school semester. The report must include, without limitation:

(a) The number of violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled at the school which are reported during that period; and

~~(b) [The status of any investigation into reported violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled at the school during that period;~~

~~(c) The names and titles, if any, of the persons who are investigating the reported violations of NRS 388.135;~~

~~(d) The result of each investigation into a reported violation of NRS 388.135 and any disciplinary measures which are imposed against a pupil or employee as a result of the investigation; and~~

~~(e)] Any [other] actions taken at the school to reduce the number of incidences of bullying, cyber-bullying, harassment and intimidation, including, without limitation, training that was offered or other policies, practices and programs that were implemented.~~

2. The board of trustees of each school district shall review and compile the reports submitted pursuant to subsection 1 and, on or before August 1, submit a compilation of the reports to the Department.

~~¶ 3. The Department shall review each report submitted pursuant to subsection 2 and assign a grade to each school district and each public school within the school district in accordance with the regulations adopted by the State Board.~~

~~4. A grade assigned to a school district pursuant to subsection 3 must be based upon:~~

~~(a) The average of all grades assigned to the public schools within the school district; and~~

~~(b) The ability and progress made by the school district in implementing policies, practices and programs that aid in the prevention of bullying, cyber bullying, harassment and intimidation in the public schools within the school district.~~

~~5. A grade assigned to a school pursuant to subsection 3 must be based upon the ability and progress made by the school in implementing policies, practices and programs that aid in the prevention of bullying, cyber bullying, harassment and intimidation at the school.~~

~~6. Not later than 10 days after a grade is assigned to a school district, the board of trustees of the school district shall post on the Internet website maintained by the school district:~~

~~(a) The grade assigned to the school district and each public school within the school district pursuant to this section; and~~

~~(b) The report prepared pursuant to subsection 1.~~

~~7. Each public school shall post the grade assigned to the school pursuant to this section on the Internet website maintained by the school, if any.~~

~~8. Each report prepared and posted pursuant to this section must not disclose any personally identifiable information about an individual pupil.]~~

Sec. 14. 1. A teacher or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall ~~+~~

~~(a) Verbally~~ verbally report the violation to the principal or his or her designee on the day on which the teacher or other staff member witnessed the violation or received information regarding the occurrence of a violation. ~~+~~ and

~~(b) Submit a written report of the violation to the principal not later than 2 days after the teacher or other staff member witnessed the violation or received information regarding the occurrence of a violation.~~

~~2. Upon receipt of the notice pursuant to subsection 1 or, if the principal witnesses a violation of NRS 388.135 or receives information of such a violation, the principal shall provide written notice of a reported violation of NRS 388.135 to the parent or legal guardian of each pupil involved, which must include, without limitation, a statement that the principal will be conducting an investigation into the reported violation and that the parent or legal guardian may discuss with the principal or the anti-bullying school specialist any counseling and intervention services that are available to the pupils.~~

~~3.]~~ 2. The principal or his or her designee shall initiate an investigation not later than 1 day after receiving [the written report] notice of the violation ~~+~~ pursuant to subsection 1. The investigation must ~~+~~

~~(a) Be conducted by the anti-bullying school specialist and any additional school personnel appointed by the principal to assist in the investigation; and~~

~~(b) Be~~ be completed within 10 days after the date on which the investigation is initiated~~;~~

~~4. Upon completion of an investigation, the anti-bullying school specialist shall submit a written report of the results of the investigation to the principal. The anti-bullying school specialist may amend the written report if the anti-bullying school specialist receives additional information concerning the violation after the initial report is submitted to the principal.~~

~~5. Upon receipt of the written report submitted pursuant to subsection 4, the principal shall review the written report not later than 5 days after receipt of the report and submit the report to the superintendent of schools of the school district which includes the specific actions that will be taken as a result of the investigation and any recommendations concerning the imposition of disciplinary actions or other measures.~~

~~6. Upon receipt of the written report submitted pursuant to subsection 5, the superintendent of schools of the school district shall:~~

~~(a) Issue a decision in writing to affirm, reject or modify the recommendations of the principal contained in the written report; and~~

~~(b) Provide written notice of the results of the investigation to the board of trustees of the school district and to the parent or legal guardian of each pupil involved in the reported violation of NRS 388.135, which must include, without limitation, the specific actions that will be taken as a result of the investigation.~~

~~7. and, if a violation is found to have occurred, include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.~~

3. The parent or legal guardian of a pupil involved in the reported violation of NRS 388.135 may appeal ~~the~~ a disciplinary decision of the ~~superintendent of schools to the board of trustees of the school district pursuant to section 15 of this act.~~ principal or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

Sec. 15. ~~1. Upon receipt of the written notice provided pursuant to subsection 6 of section 14 of this act, the parent or legal guardian of a pupil involved in a reported violation of NRS 388.135 may request a hearing on the matter by the board of trustees of the school district in accordance with the procedure prescribed pursuant to subsection 6.~~

~~2. The anti-bullying school district coordinator shall assist the board of trustees of the school district with any investigation that is necessary to prepare for a hearing conducted pursuant to this section. In conducting the investigation, the anti-bullying school district coordinator may request the assistance of the anti-bullying school specialist assigned for the school at which the reported violation occurred.~~

~~3. The board of trustees of the school district shall hold the hearing not later than 15 days after receipt of the request. The provisions of chapter 241 of NRS do not apply to a hearing conducted pursuant to this section. Such hearings must be closed to the public. Upon completion of the hearing, the board of trustees shall issue a decision in writing to affirm, reject or modify the recommendations of the superintendent of schools of the school district contained in the written report.~~

~~4. The board of trustees of a school district shall submit a report of the results of the hearing and the board's decision to the:~~

- ~~(a) The Department;~~
- ~~(b) Principal of each school in which the pupils involved in the reported violation of NRS 388.125 are enrolled; and~~
- ~~(c) Parents or legal guardians of the pupils involved in the reported violation of NRS 388.125.~~

~~5. The parent or legal guardian of a pupil involved in the reported violation of NRS 388.125 may appeal the decision of the board of trustees of the school district to the State Board.~~

~~6. The board of trustees of each school district shall:~~

~~(a) Prescribe a procedure for a parent or legal guardian of a pupil involved in a reported violation of NRS 388.125 to request a hearing by the board of trustees pursuant to this section, including, without limitation, the time period within which such a request must be made for timely consideration of the matter; and~~

~~(b) Provide a link to the procedure on its Internet website where the policy adopted by the school district pursuant to NRS 388.134 is posted. (Deleted by amendment.)~~

~~Sec. 16. 1. If the State Board determines that sufficient grounds exist for an appeal requested by a parent or legal guardian of a decision of the board of trustees of a school district pursuant to section 15 of this act, the State Board shall hold the hearing not later than 15 days after receipt of the request. The provisions of chapter 241 of NRS do not apply to a hearing conducted pursuant to this section. Such hearings must be closed to the public. Upon completion of the hearing, the State Board shall issue a decision in writing to affirm, reject or modify the decision of the board of trustees of the school district.~~

~~2. The State Board shall submit a report of the results of the hearing and its decision to the:~~

- ~~(a) Board of trustees of the school district whose decision was appealed;~~
- ~~(b) Principal of each school in which the pupils involved in the reported violation of NRS 388.125 are enrolled; and~~
- ~~(c) Parents or legal guardians of the pupils involved in the reported violation of NRS 388.125. (Deleted by amendment.)~~

~~Sec. 17. The board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district,~~

shall establish a policy for the procedures which must be followed by an employee of the school district when reporting a violation of NRS 388.135 to a school police officer or local law enforcement agency.

Sec. 18. *The State Board shall adopt regulations:*

1. Establishing the process whereby school districts may apply to the State Board for a grant of money from the Bullying Prevention Fund pursuant to section 9 of this act.

~~*2. Prescribing the procedure for a parent or legal guardian of a pupil involved in a reported violation of NRS 388.135 to request an appeal of a decision of the board of trustees of a school district pursuant to section 16 of this act to the State Board, including, without limitation, the time period within which such a request must be made for timely consideration of the matter.*~~

~~*3. Prescribing the procedure for complying with the requirements of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act if a reported violation of NRS 388.135 involves pupils enrolled at different schools.*~~

~~*4. As are necessary to carry out the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act.*~~

Sec. 19. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.139, inclusive, *and sections 5 to 18, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 388.122 to 388.129, inclusive, ~~and sections 5 and 6 of this act~~ have the meanings ascribed to them in those sections.

Sec. 20. NRS 388.122 is hereby amended to read as follows:

388.122 "Bullying" means a willful act *which is written, verbal or physical*, or a course of conduct on the part of one or more ~~{pupils}~~ *persons* which is not authorized by law and which exposes a ~~{pupil}~~ *person one time or* repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person and ~~{is}~~ :

1. Is intended to cause {and} or actually causes the {pupil} person to suffer harm or serious emotional distress {;} ;

2. Places the person in reasonable fear of harm or serious emotional distress; or

3. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Sec. 21. NRS 388.125 is hereby amended to read as follows:

388.125 "Harassment" means a willful act *which is written, verbal or physical*, or a course of conduct that is not otherwise authorized by law ~~and~~ *is:*

~~*1. Highly*~~ *, is highly* offensive to a reasonable person ~~{}~~ and

~~*{2. Intended}*~~ :

1. Is intended to cause {and} or actually causes another person to suffer serious emotional distress {;} ;

2. *Places a person in reasonable fear of harm or serious emotional distress; or*

3. *Creates an environment which is hostile to a pupil by interfering with the education of the pupil.*

Sec. 22. NRS 388.129 is hereby amended to read as follows:

388.129 "Intimidation" means a willful act *which is written, verbal or physical*, or a course of conduct that is not otherwise authorized by law ~~and~~:

1. ~~Is~~, is highly offensive to a reasonable person ~~};~~ and

~~{2. Poses}~~ :

1. *Poses* a threat of immediate harm or actually inflicts harm to another person or to the property of another person ~~};~~ ;

2. *Places a person in reasonable fear of harm or serious emotional distress; or*

3. *Creates an environment which is hostile to a pupil by interfering with the education of the pupil.*

Sec. 23. ~~NRS 388.133 is hereby amended to read as follows:~~

~~388.133 1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber bullying, harassment and intimidation.~~

~~2. The policy must include, without limitation:~~

~~(a) The name and contact information for each anti bullying school district coordinator for each school district.~~

~~(b) Requirements and methods for reporting violations of NRS 388.135 ;~~ and

~~(b)} which must:~~

~~(1) Authorize a pupil to report a violation of NRS 388.135 anonymously.~~

~~(2) Set forth the actions that a principal may take against a pupil if the principal determines that a pupil intentionally makes a false report of a violation of NRS 388.135.~~

~~(c) The measures that the principal and anti bullying school specialist must implement to respond to a reported violation of NRS 388.135, which may include, without limitation, counseling and support services or other programs to reduce bullying, cyber bullying, harassment or intimidation within the school.~~

~~(d) A policy for use by school districts to train administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:~~

~~(1) Training in the appropriate methods to facilitate positive human relations among pupils without the use of bullying, cyber bullying,~~

~~harassment and intimidation so that pupils may realize their full academic and personal potential;~~

~~(2) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; [and]~~

~~(3) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior [.]~~

~~(4) Training in the prevention of suicide, including, without limitation, the relationship between the risk of suicide and a pupil who is bullied, cyber bullied, harassed or intimidated; and~~

~~(5) Methods to reduce the risk of suicide in pupils.] (Deleted by amendment.)~~

Sec. 24. NRS 388.134 is hereby amended to read as follows:

388.134 The board of trustees of each school district shall:

1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection 2 of NRS 389.520. The board of trustees may adopt an expanded policy for one or both of the policies if each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.

2. Provide for the appropriate training of all administrators, principals, teachers and all other personnel employed by the board of trustees in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520.

3. ~~{On or before September 1 of each year, submit a report to the Superintendent of Public Instruction that includes a description of each violation of NRS 388.135 occurring in the immediately preceding school year that resulted in personnel action against an employee or suspension or expulsion of a pupil, if any.} Post the policies adopted pursuant to subsection 1 on the Internet website maintained by the school district . f including, without limitation, the name and contact information of the anti bullying school district coordinator.~~

4. *Ensure that the parents and legal guardians of pupils enrolled in the school district have sufficient information concerning the availability of the policies, including, without limitation, information that describes how to access the policies on the Internet website maintained by the school district. Upon the request of a parent or legal guardian, the school district shall provide the parent or legal guardian with a written copy of the policies.*

5. ~~{In consultation with the anti bullying school district coordinator and the anti bullying school specialists, review}~~ *Review the policies adopted pursuant to subsection 1 on an annual basis and update the policies if necessary. If the board of trustees of a school district updates the policies, the board of trustees must submit a copy of the updated policies to the Department within 30 days after the update.*

Sec. 25. NRS 388.1345 is hereby amended to read as follows:

388.1345 The Superintendent of Public Instruction shall:

1. Compile the reports submitted pursuant to ~~{NRS 388.134}~~ **section 13 of this act** and prepare a written report of the compilation.

2. On or before October 1 of each year, submit the written compilation to the Attorney General.

Sec. 26. NRS 388.139 is hereby amended to read as follows:

388.139 Each school district shall include the text of the provisions of NRS 388.121 to 388.135, inclusive, **and sections 5 to 18, inclusive, of this act** and the policies adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading "Bullying, Cyber-Bullying, Harassment and Intimidation Is Prohibited in Public Schools," within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Sec. 27. ~~{Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. On or after January 1, 2013, each applicant for an initial license to teach must submit with the application proof of the completion of a course in the prevention of bullying, cyber bullying, harassment or intimidation in schools.~~

~~2. Except as otherwise provided in subsection 3, a licensed teacher who submits an application for renewal of his or her license to teach on or after January 1, 2013, shall submit with the application proof of the completion of a course in the prevention of bullying, cyber bullying, harassment or intimidation in schools.~~

~~3. A licensed teacher is not required to submit proof of the completion of a course pursuant to subsection 2 if the teacher has previously completed such a course and filed proof of the completion with the Superintendent of Public Instruction.~~

~~4. The Commission shall adopt regulations that prescribe:~~

~~(a) The required contents of a course in the prevention of bullying, cyber bullying, harassment or intimidation which must be completed pursuant to this section; and~~

~~(b) The number of credits which must be earned by the applicant or licensed teacher in a course in the prevention of bullying, cyber bullying, harassment or intimidation.~~

~~5. As used in this section:~~

~~(a) "Bullying" has the meaning ascribed to it in NRS 388.122.~~

~~(b) "Cyber bullying" has the meaning ascribed to it in NRS 388.123.~~

~~(c) "Harassment" has the meaning ascribed to it in NRS 388.125.~~

~~(d) "Intimidation" has the meaning ascribed to it in NRS 388.129.~~

(Deleted by amendment.)

Sec. 28. NRS 391.312 is hereby amended to read as follows:

391.312 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

(a) Inefficiency;

- (b) Immorality;
- (c) Unprofessional conduct;
- (d) Insubordination;
- (e) Neglect of duty;
- (f) Physical or mental incapacity;
- (g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;
- (h) Conviction of a felony or of a crime involving moral turpitude;
- (i) Inadequate performance;
- (j) Evident unfitness for service;
- (k) Failure to comply with such reasonable requirements as a board may prescribe;
- (l) Failure to show normal improvement and evidence of professional training and growth;
- (m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;
- (n) Any cause which constitutes grounds for the revocation of a teacher's license;
- (o) Willful neglect or failure to observe and carry out the requirements of this title;
- (p) Dishonesty;
- (q) Breaches in the security or confidentiality of the questions and answers of the achievement and proficiency examinations that are administered pursuant to NRS 389.015;
- (r) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations adopted pursuant to NRS 389.616 or 389.620; ~~for~~
- (s) An intentional violation of NRS 388.5265 or 388.527 ~~+~~ ; or
- (t) An intentional failure to report a violation of NRS 388.135 if the teacher or administrator witnessed the violation.**

2. ~~In addition to the reasons identified in subsection 1, a principal may be demoted, suspended, dismissed or not reemployed if the principal:~~

- ~~(a) Intentionally fails to initiate or conduct an investigation into a reported violation of NRS 388.135 as required pursuant to section 14 of this act; or~~
- ~~(b) Reasonably should have known of a violation of NRS 388.135 and failed to take appropriate action.~~

~~3.~~ In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

Sec. 29. ~~NRS 391.3161 is hereby amended to read as follows:~~

~~391.3161 1. Each request for the appointment of a person to serve as a hearing officer must be submitted to the Superintendent of Public Instruction.~~

~~2. Within 10 days after receipt of such a request, the Superintendent of Public Instruction shall request that the Hearings Division of the Department of Administration appoint a hearing officer.~~

~~3. The State Board shall prescribe the procedures for exercising challenges to a hearing officer, including, without limitation, the number of challenges that may be exercised and the time limits in which the challenges must be exercised.~~

~~4. A hearing officer shall conduct hearings in cases of demotion, dismissal or a refusal to reemploy based on the grounds contained in subsection 1 or 2 of NRS 391.312.~~

~~5. This section does not preclude the employee and the superintendent from mutually selecting an attorney who is a resident of this State, an arbitrator provided by the American Arbitration Association or a representative of an agency or organization that provides alternative dispute resolution services to serve as a hearing officer to conduct a particular hearing. (Deleted by amendment.)~~

~~Sec. 30. [Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Legislature hereby encourages each private school to adopt policies and programs consistent, to the extent applicable, with the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act, to prevent bullying, cyber bullying, harassment or intimidation at private schools.~~

~~2. As used in this section:~~

~~(a) "Bullying" has the meaning ascribed to it in NRS 388.122.~~

~~(b) "Cyber bullying" has the meaning ascribed to it in NRS 388.123.~~

~~(c) "Harassment" has the meaning ascribed to it in NRS 388.125.~~

~~(d) "Intimidation" has the meaning ascribed to it in NRS 388.129.]~~

~~(Deleted by amendment.)~~

~~Sec. 31. [Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Board of Regents may adopt a policy to provide a safe and respectful learning environment that is free from bullying, cyber bullying, harassment and intimidation. The policy may include, without limitation:~~

~~(a) A statement which prohibits bullying, cyber bullying, harassment and intimidation at a university, state college or community college within the System;~~

~~(b) The definition of bullying, cyber bullying, harassment and intimidation consistent, to the extent applicable, with the definitions set forth in NRS 388.122, 388.123, 388.125 and 388.129, respectively; and~~

~~(c) The disciplinary measures which the Board of Regents may take against a student or employee of the System who is found to have bullied, cyber bullied, harassed or intimidated another student or employee.~~

~~2. If a policy is adopted pursuant to subsection 1:~~

~~(a) The policy must be included within each copy of the code of conduct that a university, state college or community college within the System provides to students.~~

~~(b) Each university, state college and community college within the System shall post the policy on the Internet website maintained by the university, state college or community college.] (Deleted by amendment.)~~

Sec. 32. Chapter 236 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Governor shall annually proclaim the first week in October to be "Week of Respect."*

2. *The proclamation may call upon:*

(a) *News media, educators and appropriate government offices to bring to the attention of the residents of Nevada factual information regarding bullying, cyber-bullying, harassment and intimidation in schools, including, without limitation:*

(1) *Statistical information regarding the number of pupils who are bullied, cyber-bullied, harassed or intimidated in schools each year;*

(2) *The methods to identify and assist pupils who are at risk of bullying, cyber-bullying, harassment or intimidation; and*

(3) *The methods to prevent bullying, cyber-bullying, harassment and intimidation in schools; and*

(b) *School districts to provide instruction on the ways in which pupils can prevent bullying, cyber-bullying, harassment and intimidation during the Week of Respect and throughout the school year that is appropriate for the grade level of pupils who receive the instruction.*

3. *As used in this section:*

(a) *"Bullying" has the meaning ascribed to it in NRS 388.122.*

(b) *"Cyber-bullying" has the meaning ascribed to it in NRS 388.123.*

(c) *"Harassment" has the meaning ascribed to it in NRS 388.125.*

(d) *"Intimidation" has the meaning ascribed to it in NRS 388.129.*

Sec. 33. ~~††~~ On or before December 31, 2011, the State Board of Education shall adopt the regulations required by section 18 of this act.

~~† 2. On or before December 31, 2011, the Commission on Professional Standards in Education shall adopt the regulations required by section 27 of this act.]~~

Sec. 34. ~~[The provisions of subsection 2 of section 27 of this act apply to each licensed teacher regardless of the date on which his or her initial license was issued.] (Deleted by amendment.)~~

Sec. 35. This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Senator Denis requested that his remarks be entered in the Journal.

Amendment No. 469 makes numerous changes to Senate Bill No. 276. The amendment revises provisions governing the reporting and investigation process, and changes the appeals procedures for parents concerning violations of the safe and respectful learning environment. Under the amendment, training related to the program is to be made available, but is not required. The amendment also requires the establishment of school safety teams and specifies the principal as the person responsible for investigating reported incidents of bullying, cyber-bullying, harassment, and intimidation at the school. Various provisions are deleted including those concerning the grading of schools based upon prevention policies; sections concerning disciplinary actions for school personnel; provisions concerning private schools and higher education; and education-related licensing requirements, among others.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 283.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 348.

"SUMMARY—~~[Revises provisions governing the appointment of]~~ **Requires** counsel **appointed** for a postconviction petition for habeas corpus in which the petitioner has been sentenced to death ~~†† to complete certain continuing legal education requirements.~~ (BDR 3-1059)"

"AN ACT relating to postconviction relief; ~~revising provisions governing the appointment of]~~ **requiring** counsel **appointed** for a postconviction petition for habeas corpus in which the petitioner has been sentenced to death ~~†† to complete certain continuing legal education requirements;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that if a person who has been sentenced to death files a postconviction petition for habeas corpus to challenge the validity of the person's conviction or sentence, and the petition is the first petition for habeas corpus that challenges such validity, the court is required to: (1) appoint counsel to represent the petitioner; and (2) stay execution of the judgment pending the disposition of the petition and appeal. (NRS 34.820)

~~† The Supreme Court of the United States has held that states are not required to provide counsel in postconviction proceedings. (Pennsylvania v. Finley, 481 U.S. 551, 556-57 (1987)) The Court has also specified that this holding applies to both capital and noncapital cases. (Murray v. Giaratano, 492 U.S. 1, 10 (1989)) This bill provides that when the first postconviction petition for habeas corpus is filed by a petitioner who has been sentenced to death, the court is not required to but may appoint counsel to represent the petitioner.†~~

This bill requires such counsel appointed to represent the petitioner to: (1) have completed, within the previous 2 years preceding the date of appointment, at least 10 hours of continuing legal education specifically regarding postconviction petitions for writs of habeas corpus in capital cases; and (2) complete at least 5 hours of continuing legal education

specifically regarding postconviction petitions for writs of habeas corpus in capital cases for each 12-month period following the date of appointment in which they continue to represent the petitioner pursuant to the appointment.

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

Section 1. NRS 34.820 is hereby amended to read as follows:

34.820 1. If a petitioner has been sentenced to death and the petition is the first one challenging the validity of the petitioner's conviction or sentence, the court shall:

(a) Appoint ~~≠~~

~~(a) May appoint~~ counsel to represent the petitioner : ~~≠ pursuant to NRS 34.750;~~ and

(b) Stay ~~≠ Shall stay~~ execution of the judgment pending disposition of the petition and the appeal.

2. Counsel appointed to represent the petitioner pursuant to subsection 1:

(a) Must have completed, within the previous 2 years preceding the date of appointment, at least 10 hours of continuing legal education on the specific subject of postconviction petitions for writs of habeas corpus in capital cases; and

(b) Shall complete, in addition to the continuing legal education required pursuant to paragraph (a), at least 5 hours of continuing legal education on the specific subject of postconviction petitions for writs of habeas corpus in capital cases for each 12-month period following the date of appointment in which counsel continues to represent the petitioner pursuant to the appointment.

3. The petition must include the date upon which execution is scheduled, if it has been scheduled. The petitioner is not entitled to an evidentiary hearing unless the petition states that:

(a) Each issue of fact to be considered at the hearing has not been determined in any prior evidentiary hearing in a state or federal court; or

(b) For each issue of fact which has been determined in a prior evidentiary hearing, the hearing was not a full and fair consideration of the issue. The petition must specify all respects in which the hearing was inadequate.

~~≠~~ 4. If the petitioner has previously filed a petition for relief or for a stay of the execution in the same court, the petition must be assigned to the judge or justice who considered the previous matter.

~~≠~~ 5. The court shall inform the petitioner and the petitioner's counsel that all claims which challenge the conviction or imposition of the sentence must be joined in a single petition and that any matter not included in the petition will not be considered in a subsequent proceeding.

~~≠~~ 6. If relief is granted or the execution is stayed, the clerk shall forthwith notify the respondent, the Attorney General and the district attorney of the county in which the petitioner was convicted.

~~6-7~~ 7. If a district judge conducts an evidentiary hearing, a daily transcript must be prepared for the purpose of appellate review.

~~7-7~~ 8. The judge or justice who considers a petition filed by a petitioner who has been sentenced to death shall make all reasonable efforts to expedite the matter and shall render a decision within 60 days after submission of the matter for decision.

Sec. 2. ~~[The amendatory provisions of this act apply to a petition that is filed on or after October 1, 2011.]~~ **This act becomes effective on January 1, 2012.**

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 348 reinstates the requirement that the court shall appoint counsel to represent the petitioner and stay the execution pending resolution of the petition and appeal.

It instead requires that counsel appointed to represent the petitioner must have educational training specific to writs of habeas corpus and capital cases.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 318.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 415.

"SUMMARY—Establishes provisions governing permissible flammability of certain components in school buses. (BDR 34-781)"

"AN ACT relating to motor vehicles; establishing provisions **for new school buses purchased on and after July 1, 2014,** governing the permissible flammability of occupant seating ~~[in school buses]~~ and plastic components contained within the engine compartments of **the** school buses; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes safety standards for school buses by setting forth the required condition and equipment of those school buses. Under existing law, it is a misdemeanor to violate a provision of law relating to the safety of school buses. (NRS 392.400, 392.410, 394.190) This bill provides that ~~from and after January 1, 2014,~~ **new school buses which are purchased on and after July 1, 2014,** must meet certain enumerated standards relating to: (1) the flammability of occupant seating; and (2) the flammability of plastic components contained within the engine compartment.

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

On and after January 1, 2014, with respect to any new school bus which is purchased ~~for use~~ by a school district to transport pupils, the school

bus must meet the following standards in addition to being equipped as required by the regulations of the State Board:

1. Occupant seating within the school bus must be tested in accordance with ~~the~~ either:

(a) The ASTM International Standard ASTM E1537, "Standard Test Method for Fire Testing of Upholstered ~~Furniture.~~ ~~Such~~ Furniture"; or

(b) The School Bus Seat Upholstery Fire Block Test established by the National School Transportation Specifications and Procedures adopted at the most recent National Congress on School Transportation.

2. For the purposes of subsection 1, such testing must be conducted on a complete seat assembly inside a test room or school bus. ~~For the purposes of this subsection,~~ and occupant seating shall be deemed to have failed the ASTM E1537 test or Fire Block Test, as applicable, if:

(a) The seat assembly exhibits a weight loss of 3 pounds or greater during the first 10 minutes of the test; or

(b) The seat assembly exhibits a heat release rate of 80 kilowatts or greater.

~~2.~~ 3. Each plastic component contained in the engine compartment of ~~the~~ a new school bus which is purchased by a school district on and after July 1, 2014, to transport pupils must meet a V-0 classification when tested in accordance with the Underwriters Laboratories Inc. Standard 94, "the Standard for Safety of Flammability of Plastic Materials for Parts in Devices and Appliances testing."

Sec. 2. NRS 392.400 is hereby amended to read as follows:

392.400 1. All vehicles used in the transportation of pupils must be:

(a) In good condition and state of repair.

(b) Well equipped, and must contain sufficient room and seats so that the driver and each pupil being transported have a seat inside the vehicle. Each pupil shall remain seated when the vehicle is in motion.

(c) Inspected semiannually by the Department of Public Safety to ensure that the vehicles are mechanically safe and meet the minimum specifications established by the State Board. The Department of Public Safety shall make written recommendations to the superintendent of schools of the school district wherein any such vehicle is operating for the correction of any defects discovered thereby.

2. If the superintendent of schools fails or refuses to take appropriate action to have the defects corrected within 10 days after receiving notice of them from the Department of Public Safety, the superintendent is guilty of a misdemeanor, and upon conviction thereof may be removed from office.

3. Except as otherwise provided in subsection 4, all vehicles used for transporting pupils must meet the specifications established by regulation of the State Board.

4. ~~Any~~ **Except as otherwise provided in this subsection, any** bus which is purchased and used by a school district to transport pupils to and from extracurricular activities is exempt from the specifications adopted by the

State Board if the bus meets the federal safety standards for motor vehicles which were applicable at the time the bus was manufactured and delivered for introduction in interstate commerce. ***On and after January 1, 2014, any new school bus which is purchased ~~for use~~ by a school district to transport pupils must meet the standards set forth in section 1 of this act.***

5. Any person violating any of the requirements of this section is guilty of a misdemeanor.

Sec. 3. NRS 392.410 is hereby amended to read as follows:

392.410 1. Except as otherwise provided in this subsection, every school bus operated for the transportation of pupils to or from school must be equipped with:

(a) A system of flashing red lights of a type approved by the State Board and installed at the expense of the school district or operator. Except as otherwise provided in subsection 2, the driver shall operate this signal:

- (1) When the bus is stopped to unload pupils.
- (2) When the bus is stopped to load pupils.
- (3) In times of emergency or accident, when appropriate.

(b) A mechanical device, attached to the front of the bus which, when extended, causes persons to walk around the device. The device must be approved by the State Board and installed at the expense of the school district or operator. The driver shall operate the device when the bus is stopped to load or unload pupils. The installation of such a mechanical device is not required for a school bus which is used solely to transport pupils with special needs who are individually loaded and unloaded in a manner which does not require them to walk in front of the bus. The provisions of this paragraph do not prohibit a school district from upgrading or replacing such a mechanical device with a more efficient and effective device that is approved by the State Board.

2. A driver may stop to load and unload pupils in a designated area without operating the system of flashing red lights required by subsection 1 if the designated area:

- (a) Has been designated by a school district and approved by the Department;
- (b) Is of sufficient depth and length to provide space for the bus to park at least 8 feet off the traveled portion of the roadway;
- (c) Is not within an intersection of roadways;
- (d) Contains ample space between the exit door of the bus and the parking area to allow safe exit from the bus;
- (e) Is located so as to allow the bus to reenter the traffic from its parked position without creating a traffic hazard; and
- (f) Is located so as to allow pupils to enter and exit the bus without crossing the roadway.

3. In addition to the equipment required by subsection 1 and except as otherwise provided in subsection 4 of NRS 392.400, each school bus must ~~be~~:

(a) *Be* equipped and identified as required by the regulations of the State Board ~~of~~; and

(b) ~~On~~ **If the bus is a new bus purchased by a school district on and after January 1, 2014, to transport pupils, meet the standards set forth in section 1 of this act.**

4. The agents and employees of the Department of Motor Vehicles shall inspect school buses to determine whether the provisions of this section concerning equipment and identification of the school buses have been complied with, and shall report any violations discovered to the superintendent of schools of the school district wherein the vehicles are operating.

5. If the superintendent of schools fails or refuses to take appropriate action to correct any such violation within 10 days after receiving notice of it from the Department of Motor Vehicles, the superintendent is guilty of a misdemeanor, and upon conviction must be removed from office.

6. Any person who violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 4. NRS 394.190 is hereby amended to read as follows:

394.190 1. The provisions of NRS 392.400 and 392.410 relating to the condition, equipment and identification of vehicles used for the transportation of pupils apply to private schools.

2. **On and after January 1, 2014, with respect to any new school bus purchased to transport pupils, the standards for school buses set forth in section 1 of this act apply to private schools.**

3. All such vehicles are subject to inspection at all times by agents and employees of the Department of Motor Vehicles, who shall report any violations discovered thereby to the executive head of the private school.

~~3-~~ 4. If the executive head of the private school fails or refuses to take appropriate action to correct any such violation within 10 days after receiving the report from the Department of Motor Vehicles, the executive head is guilty of a misdemeanor.

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

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Senator Denis requested that his remarks be entered in the Journal.

Amendment No. 415 limits the provisions of the bill to new school buses purchased after January 1, 2014, deleting requirements that would have required retrofitting buses purchased prior to that date. The amendment also provides that occupant seating fire testing may include either the School Bus Seat Upholstery Fire Block Test from the National Transportation Specifications and Procedures or the ASTM test already specified in the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that upon return from reprint, Senate Bills Nos. 64, 276 be re-referred to the Committee on Finance.

Motion carried.

The Sergeant at Arms announced that Assemblymen Frierson and Kirner were at the bar of the Senate. Assemblyman Frierson invited the Senate to meet in Joint Session with the Assembly to hear Representative Shelley Berkley.

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

Senate in recess at 5:01 p.m.

IN JOINT SESSION

At 5:06 p.m.

President Krolicki presiding.

The Secretary of the Senate called the Senate roll.

All present except Senator Schneider, who was excused.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

The President appointed a Committee on Escort consisting of Senator Horsford and Assemblywoman Smith to wait upon the Honorable Shelley Berkley and escort her to the Assembly Chamber.

The Committee on Escort escorted Representative Berkley to the bar of the Assembly.

Representative Berkley delivered her message as follows.

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-SIXTH SESSION, 2011

Speaker Ocguera, Majority Leader Horsford, Speaker Pro Tempore Smith, Minority Leader Goicoechea, and Minority Leader Mike McGinness. I thank you very much for giving me the opportunity to speak with you this evening. I know that you are very, very busy right now, and taking time out of your very busy schedules to listen to me is greatly appreciated. I know we have this wonderful tradition of your federal officials coming, one at a time, and speaking to our Legislature. I think it is a lovely tradition, and I hope it continues for many, many years into the future.

I want to acknowledge the guests, in addition to the Assemblymen and State Senators, that are here today. I want to particularly thank the members of our Judiciary for coming over to the Legislative Branch and, of course, the Constitutional Officers. You honor me with your presence tonight. I thank you very much. I would be remiss if I did not personally thank the Governor for taking time from his busy schedule to be here. I appreciate the courtesy very, very much.

Before I begin my remarks, I think it would be very appropriate to acknowledge the men and women from Nevada that are serving in our Armed Forces overseas. I do not believe in a moment of silence or a prayer at this time because everybody acknowledges our fighting men and women in their own way. But I think it is important that the leaders of this great State, since we are here together, acknowledge the extraordinary work that our Armed Forces do every day for the rest of us.

I also would be remiss if I didn't acknowledge the passing of President Glick. It is a most unfortunate loss, not only for University of Nevada Reno, but for higher education, education in general, and for the entire state of Nevada. He will be sorely missed, and I am very sorry that he is gone.

I have been your representative in Congress for 13 years now. I first spoke with you as a member of Congress 13 years ago. It has been 28 years since I served as an Assemblywoman in this body. I sat right over there where Ms. Flores is sitting, and I had my seven-month-old son Max with me. Now, like most people, I tell time by the birth of my children and their ages. Max is now 28 years old, and we are waiting for word that he passed the bar, ladies and gentlemen of the judiciary. I am most anxious to get him off my payroll and on to someone else's.

Because I am a colleague in fashion, because we are all public servants here, and because I have served in this body, I fully appreciate and respect the work that you are doing. These are not easy times, and you are doing amazing work in a very, very short period of time. I understand the challenges that are facing all of us throughout our nation, and particularly here in our beloved State of Nevada.

We have the highest unemployment rate in the country. We have the highest mortgage foreclosure rate in the country. People who never missed a day of work have lost their jobs. People that have never missed a monthly mortgage payment are losing their homes. They are looking to us for help or suggestions or solutions, and as public officials and leaders of this State and this nation, it is our obligation to do exactly that.

For me, the single most important issue right now is jobs, jobs, jobs. There is nothing more important than getting our economy moving and getting our fellow citizens back to work. We need to get our fiscal house in order, and we need to prepare for our nation's future.

There are three issues, in my mind, that are essential to accomplishing these goals: education, infrastructure, energy independence. I would like to spend a couple of minutes on each of those items, if I may.

Education—most of the people in this room know me well, but for those that don't, let me tell you of my own history. My father has a ninth grade education; my mother graduated high school. But in our family, they knew that the difference between success and failure was that their children got a good education. When I was growing up, my parents did not care if I was pretty or popular—I would like to think I was both—but they cared that I got good grades. I am the first person in my family to go to college, and if it was not for the university and community college system here in this great State, I guarantee that I would not be standing here in front of you today. I know that my story is not dissimilar to so many people sitting here as well. I see so many of us that either graduated from University of Nevada Las Vegas, University of Nevada Reno, the community college system, or at the very least took classes at one of our community colleges.

Our Nevada children are no longer competing with students from Missouri and Minnesota and Montana. Our children are competing with the Indians and children from China, who are investing in their future by investing billions of dollars in their education system. Low taxes, which we are very proud of in this State; good weather; and good location in the western United States are no longer enough to attract industry and new business to our State.

If we are going to diversify our economy, which we must—we have been talking about it for 30 years—if we are going to do that, we have to invest in ourselves. Businesses coming to Nevada need and want a well-educated and well-trained workforce. They are not going to come here if we do not deliver that. That is why I fought drastic cuts in Pell Grants and in-job training programs. I could not have gotten through college without grants and scholarships and working on the side, and I suspect that many of the students that go to our universities and community colleges are in the same position today that I was when I was growing up. To take Pell Grants away from students that have all the right abilities to get a good education and make something of themselves, I think, would be a terrible mistake for this country.

Now I am very careful not to criticize the people in this room. I know you spent hours last night—just last night alone—and many, many hours and days and weeks discussing these issues. But in my mind, gutting our education system is shortchanging our children, and almost as important as that, it is undermining our ability to diversify our economy. If we are going to

climb our way out of this economic mess that has not only taken over the State of Nevada in a disproportionately harsh way but the entire country, we are going to need to figure out new ways of doing things.

If I could for a moment wax poetic, our very democracy depends on a well-educated electorate making informed decisions at the ballot box. That well-educated electorate starts with our classrooms, and those classrooms start with adequate funding so that our kids can get the best possible education this state can have.

Infrastructure—this nation has an aging and crumbling infrastructure. It was no accident that the levies did not hold in New Orleans. It was no accident that the bridge collapsed in Minnesota. It was a catastrophic loss of life, and billions and billions of taxpayers' dollars went down the drain and are now being used to fix these infrastructure projects. We are either going to pay now or we are going to pay later, but if we pay now, we actually create an infrastructure that will take this country through the twenty-first century, and we will have something to show for it at the end. In addition to new roads and bridges and dams and levies throughout the United States and here in the State of Nevada, we will also be creating jobs—good paying construction jobs—hundreds of thousands of them so we can get our people back to work. That is the importance of infrastructure.

Renewable energy—we must end our dependence on foreign oil, and there are three reasons why we have to do this. It is an economic necessity. It is an environmental necessity. It is a national security imperative. Nevada has an abundance of sun and wind and geothermal. We could be the epicenter of renewable energy production. We could be a net exporter to the rest of the western United States if we invest our dollars in renewable energy. I believe we can create an entire green economy based on green jobs.

Prior to me serving here in the Nevada Legislature, I was in-house counsel at Southwest Gas Corporation. I know a little bit—a little bit—about energy. We have to diversify our energy options. I am not foolish enough to suggest that we will never be dependent on oil, but certainly we can harness the sun and wind and geothermal to be part of a more diverse energy portfolio.

So when Congress voted to end loan guarantees for solar power projects, I voted no. And the reason I voted no to end these loan guarantees is because it is bad for Nevada. Our State is home to some of the biggest solar energy projects in the United States. If we end these loan guarantees in Washington, the Tonopah solar project, which is just about to get started, will come to a screeching halt. What does that do? Not only don't we create the solar energy that we could use, but we are also going to be losing 600 jobs. The State of Nevada can not afford to lose one job right now. The idea that we would be losing 600 jobs would be an anathema to me, and that is why I voted against ending that loan guarantee program for solar projects. We need it here in the State of Nevada; it is important for our future.

The Department of Energy is working with private energy companies to develop a battery-powered car that can go 300 miles without a charge. They are being tested and being manufactured right here in the United States. If we pull the plug on research and development funding, they are not going to be tested and they are not going to be manufactured here. Now we keep talking about expanding our manufacturing base. We do not manufacture enough things here in the United States. This is tailor made for us, and I guarantee if we end those research and development dollars—if we take away the funding—that these projects are going to maybe dry up here in the United States. I bet dollars to doughnuts the Chinese and the Koreans are going to develop these batteries. And you know what? We are going to be buying these batteries from them. We should not have to do that. Let us keep these research and development dollars.

The owners of a Nevada company that sells and installs energy-efficient products like solar screens and insulation for water heaters came to my office recently. This is what they told me. They said that their business is going gangbusters. They are selling a lot of product, and they are hiring a lot of people. But if we end the tax credits for consumers—for people like you and me that want to put solar screens on our windows so that we lower the cost of energy in our homes or if we want to wrap our heating elements and save hundreds of dollars on a monthly basis—if we end those tax credits, their business is going to dry up. They are going to have to close, and they are going to have to lay off all of these workers that they hired. This is the future and this is the future of our State. That is why I fight so hard to keep these tax credits, to make sure that these projects are built, and to make sure that consumers can lower the cost of their monthly energy

bills and keep these businesses local and keep them open. That is why I think it is so important for us to do that.

Energy independence, in my mind, is a national security imperative. It is incomprehensible to me that a super power like the United States of America is so dependent on the Saudis and the Venezuelans and the Nigerians to have our energy needs met. These countries are not our friends. They do not wish us well, and the longer we remain dependent on the Saudis and the Venezuelans and the Nigerians—and so many other countries that are dictatorial terrorist regimes that happen to be sitting on a lot of oil—the worse off this nation is going to be. The sooner we become energy independent—as soon as we harness the sun, wind, geothermal, biomass, and so many other possibilities that we have now—the sooner our children are not going to have to be holding hands with the Saudi royal family pretending they are friends when the reality is they are the biggest exporters of terrorism and the biggest financiers of terrorism on the planet. We are so desperate for that oil that we pretend they are our friends and allies. Shame on us. Let us start moving toward energy independence.

There are a number of issues that we are addressing in our nation's capital, and I would like to share some of them with you. There is a movement afoot to restart Yucca Mountain. If anybody in this room does not know what that means, I will refresh your memory. That means shipping a minimum of 77,000 tons of radioactive, toxic nuclear waste that has a radioactive shelf life of approximately 300 years across 43 states to be buried in a hole in the Nevada desert where we have groundwater issues, seismic activity, and volcanic activity. Now, that cost of reopening Yucca Mountain and using it as a national repository when we can and we do have an alternative of dry cast storage onsite so it does not have to be moved and it is perfectly safe where it is—the very cost of that is \$100 billion. I would suggest to the people in Washington—and we all are interested in lowering our deficit—but if you want to seriously lower the deficit, let us save \$100 billion right off the bat and end Yucca Mountain once and for all.

Medicare—the House passed a bill that I voted against that would end Medicare and replace it with a voucher system. Our most vulnerable citizens would be required to purchase insurance from a private insurance company. What would that mean? Our seniors would be dependent on the whims of the insurance companies. How many among us reach the age of 65 without a preexisting condition? What insurance company is going to insure a senior citizen that has a preexisting condition? And what happens when that voucher outpaces the cost of their health care? Do they remove themselves from their dialysis machine and go quietly away to die?

The estimated cost per senior of moving to a voucher system is \$6,000 a year for that senior. A third of the seniors that we collectively represent in this state—a third of them—are on a fixed income, which means the only income they have is their social security check. From that check, they pay their rent, they pay for their medication, they pay their energy bills and for their food. Where are they going to get \$6,000 to pay for additional health care costs? The health and well-being of our seniors cannot and should not be a partisan issue. It does not matter if we are Republicans or Democrats or Independents; we are all getting old, and we are all going to get sick. What we need to do is fix, not destroy, this nation's Medicare system.

The Ryan budget that I just voted against reopened the doughnut hole. For those of you who do not know, we are trying to make prescription medication affordable for our seniors. If the doughnut hole is reopened, if that legislation becomes law today, 26,000 of our Nevada seniors will pay more for their prescription medication just on day one. That number will increase as time goes on. Why would we want to do this to our senior citizens? Are we really that anxious to balance our budget on the backs of the most vulnerable among us? I don't think so. I do not think anybody here in this room would want to do that.

Social security—I believe we have to protect social security, not privatize it. We have so many of our seniors that depend on it, and frankly, I am not about to entrust Wall Street with our seniors' retirement savings so that they can do to social security what they did to the housing market and bring this nation to the brink of financial disaster. I am not going to do it.

Medicaid—I voted against block granting Medicaid funds to the states. Nevada is already facing a huge shortfall in our budget. This proposal could possibly slash \$6.9 billion in health benefits over the next ten years. If that happens, we would be forced to remove 136 Nevadans from our Medicaid rolls, and we would be closing our nursing homes. That is unacceptable, and I suspect it is unacceptable to everybody in this room.

Veterans—I am the daughter of a World War II veteran. I am the wife of a Vietnam-era veteran. My father served in the Navy. My husband served nine and a half years in the Army. We have a responsibility and an obligation to those that sacrifice much on behalf of the rest of us. A very small percentage of our fellow citizens stand up and answer the call. For those that do, I think when they return, we have an obligation to provide the services—health services, education services, housing services—that we promised them when they left. When they come back, those things need to be assured—that we are there for them as they were there for us.

I could never support legislation that cuts the housing voucher program for our homeless vets. Six hundred Nevada veterans are off the streets and living in housing because they qualified for a housing voucher from the Veteran's Administration (VA). I will not cut that program. There are hundreds more of our fellow Nevadans on the streets tonight that should not be, and we need to fund those programs, not eliminate them. It is that important.

Our veterans wait for much, but what they will not be waiting for much longer is the VA medical complex that is being built in North Las Vegas. It is one of the first new constructions of a VA facility in the United States of America. It is on 147 acres; three buildings, a full service hospital, a long-term care facility, and an outpatient clinic. The VA will be hiring, or is in the process of hiring, a thousand employees to staff those three facilities. It is on time, it is on budget, and in the year 2006, it was the single largest earmark in our federal budget. And no, I am not giving it back.

My friends and colleagues, we have been through a lot together. There are people in this room that I have known for a better part of my life, others that I have admired from afar, others that I worked very closely with, and I have the highest regard for everybody serving, particularly at this most challenging time.

Our nation is facing many challenges. This State certainly is. But I believe our best years are ahead of us. There is no doubt in my mind about that. But the challenge is how do we get from here to there, and this is how I think we should do it: By investing in our future; by empowering the middle class by getting people back to work; by keeping our promises to our seniors and our veterans and our children and getting our fiscal house in order; by harnessing technology and the entrepreneurial spirit that has marked the United States of America, particularly an amazing State in the middle of nowhere—the State of Nevada. If we do these simple things, we will remind ourselves and show the world why the United States is the great nation that we are and that we intend to remain a super power and the great nation that we are and a light on to the other nations for many, many, many generations to come.

I thank each and every one of you for your friendship and your service to the people of the State of Nevada. It is a privilege for me to serve, and it is a privilege for me to speak with you this evening. Thank you very much.

Senator Kihuen moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Berkley for her timely, able and constructive message.

Motion carried.

Senator Halseth moved that the Joint Session be dissolved.

Motion carried.

Joint Session dissolved at 5:37 p.m.

SENATE IN SESSION

At 5:44 p.m.

Senator Parks, Chair of Legislative Operations and Elections, presiding.

Quorum present.

Senator Horsford moved that Senate Bills Nos. 340, 347, 356, 377, 384, 385, 405; Senate Joint Resolution No. 12; Assembly Bills Nos. 18, 147, 156,

217, 464, be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Chair of Legislative Operations and Elections and the Secretary signed Assembly Bill No. 565.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Copening, the privilege of the Floor of the Senate Chamber for this day was extended to Patrice Palmer.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Jason Larsen and KJ Pohe.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Asher Belanger and Alex Belanger.

On request of Senator Parks, the privilege of the Floor of the Senate Chamber for this day was extended to Kimberly Medina.

Senator Horsford moved that the Senate adjourn until Friday, April 22, 2011, at 8 a.m.

Motion carried.

Senate adjourned at 5:45 p.m.

Approved:

DAVID R. PARKS

Chair of Legislative Operations and Elections

Attest: DAVID A. BYERMAN

Secretary of the Senate