

THE SEVENTY-FIFTH DAY

CARSON CITY (Friday), April 22, 2011

Senate called to order at 8:13 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Ron Torkelson.

God Almighty,

We say in our Pledge of Allegiance to this Country that we are "One Nation Under God," We print on our money "In God We Trust." I pray this morning that we will not forget that this Country is founded on the trust in a supreme being.

May we also remember that You have entrusted to us the responsibility of directing the business of this State. May we put our trust in You once again and in return may the wisdom You have promised be a gift to these people gathered today.

The decisions made here today and in the future will affect the lives of many people. I pray this will not be forgotten as the business of this day is pursued and I thank You in advance for the success You will give.

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 Government Affairs, to which were referred Senate Bills Nos. 231, 325, 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 was referred Senate Bill No. 129, 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*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 12, 83, 250, 348, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 150, 307, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was referred Senate Bill No. 103, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Finance.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 158, 223, 226, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK A. MANENDO, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Senate Bills Nos. 49, 83, 236, 387, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHIRLEY A. BREEDEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 20, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 150, 318, 329, 403, 477, 535, 551.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 9, 181, 215, 227, 267, 269, 292, 393, 398, 429, 455, 537.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 7.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

COMMUNICATIONS

NEVADA SYSTEM OF HIGHER EDUCATION

BOARD OF REGENTS

April 12, 2011

THE HONORABLE STEPHEN HORSFORD, *Senate Majority Leader*, State of Nevada Senate

Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747

DEAR SENATOR HORSFORD:

On April 8, 2011, the Board of Regents unanimously approved the enclosed resolution urging support for higher education.

The Board of Regents resolved that the Governor and Legislature of the State of Nevada be encouraged to seek additional revenue sources to support our institutions to allow them to fulfill their missions of education, research and public outreach.

Please contact us if you need additional information or would like to discuss this further.

Sincerely,

James Dean Leavitt
Chairman of the Board

Jason Geddes, Ph.D.
Vice Chairman

BOARD OF REGENTS

NEVADA SYSTEM OF HIGHER EDUCATION

RESOLUTION TO ENCOURAGE SUPPORT FOR

HIGHER EDUCATION

WHEREAS, the reduction in funding proposed for Higher Education in the 2011 Executive Budget would cause irreparable damage to the universities, colleges and institutions of the State of Nevada; and

WHEREAS, economic recovery, the economic revitalization of Nevada's economy, and workforce development would be thwarted by implementation of the cuts contemplated by the Executive Budget; and

WHEREAS, the funding shortfall inherent in the Executive Budget cannot be covered by any reasonable increase in tuition and fees or reduction in salaries and wages of Nevada NSHE employees; and

WHEREAS, to avoid irreparable damage to the higher educational institutions of the State of Nevada which would necessarily result as a consequence of the drastic reductions contained in the Executive Budget; now therefore be it

RESOLVED, that on this day, April 8, 2011, by the Board of Regents of the Nevada System of Higher Education, that the Governor and Legislature of the State of Nevada be encouraged to seek additional revenue sources to support our institutions to allow them to fulfill their missions of education, research and public outreach.

James Dean Leavitt
Chairman of the Board

Jason Geddes, Ph.D.
Vice Chairman

WAIVERS AND EXEMPTIONS
NOTICE OF EXEMPTION

April 20, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 347.

MARK KRMPOTIC
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole to consider Nevada System of Higher Education Budget, with Senator Horsford as Chair and Senator Leslie as Vice Chair.

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 8:22 a.m.

IN COMMITTEE OF THE WHOLE

At 8:24 a.m.

Senator Horsford presiding.

Consider Nevada System of Higher Education Budget.

The Committee of the Whole was addressed by Senator Horsford; Mark Krmpotic, Senate Fiscal Analyst; Alexander Haartz, Program Analyst; Senator Kieckhefer; Senator Settlemeyer; Senator Hardy; Phillip Satre, Chairman, NV Energy, Chairman, International Gaming Technology, and Director, Nordstrom Incorporated; Kirk V. Clausen, Wells Fargo; Glenn Christensen, Nevada Development Authority; Michael Saltman, Vista Group; Senator Schneider; Beatriz Aguiere, Student, University of Nevada, Reno; Daniel J. Klaich, J.D., Chancellor, Nevada System of Higher Education; Senator Denis; Senator Roberson; Senator Lee; Senator McGinness; Heidi Gansert, Chief of Staff, Office of the Governor; Senator Leslie; Andrew Clinger, Director, Department of Administration; Lisa A. Gianoli, Washoe County; Constance Brooks, Clark County; Ron Knecht, Board of Regents, Nevada System of Higher Education.

SENATOR HORSFORD:

We will hear the Fiscal Staff overview similar to the Committee of the Whole held for the kindergarten through grade 12 education (K-12) budget. Following that, we will hear from the Chair of the Chancellor's Round Table, the Chancellor, Presidents of the Nevada System of Higher Education (NSHE) institutions, representatives from the student body, and the Board of Regents. I intend to have a discussion from this body based on some of the major topic areas in these budgets.

MARK KRMPOTIC (Senate Fiscal Analyst):

Similar to the K-12 presentation, Fiscal Staff will provide a brief overview of the Governor's recommended budget for NSHE over the upcoming biennium. Each member has been provided a document titled, Senate Committee of the Whole Work Session on Governor's Budget Proposal for Higher Education, otherwise known as the Work Session Document.

This document included updated information from the most recent responses provided by NSHE at the request of the Joint Subcommittee on K-12/Higher Education. The System response is contained in the document titled Budget Hearing Follow-up, Responses to the Legislative Council Bureau (LCB) memo, dated March 22, 2011, otherwise known as the NSHE document. This document is in the Nevada Electronic Legislative Information System (NELIS) computer system. There are sections in the Work Session Document referring to the response from NSHE. Alex Haartz, the Higher Education Budget specialist will present the Governor's recommended budget and summary of the responses by NSHE.

ALEXANDER HAARTZ (Program Analyst):

I will be speaking from the Work Session Document. The document is divided into two sections. The first section provides a brief overview of the funding comparison between actions taken by the 2009 75th Legislature to fund NSHE and the Governor's recommended budget for the 2011-2013 biennium. The second part of the document beginning at the bottom of page 3 provides a summary and overview of the information regarding the budget reduction strategies NSHE has presented to the K-12/Higher Education Joint Subcommittee. It includes the projected preliminary impacts that can be determined as a result of the funding levels contained in the *Executive Budget*.

Page 1 of the Work Session Document contains a table giving a biennium to biennium funding comparison. It provides information on the General Fund appropriations approved and the non-General Fund monies authorized by the 2009 75th Legislature.

The first column contains funding in the 2009-2011 approved budget. The second column provides information on the funding levels recommended by the Governor in the *Executive Budget* and the third column indicates the difference between the two.

There has been discussion in the Joint Subcommittee of impact from changes made by the Twenty-sixth Special Session, which is not reflected on page 1 of the Work Session Document. We will discuss those changes in terms of the budget reductions and the impacts. While the first table shows the General Fund appropriation for the 2009 biennium as approximately \$1 billion, the action taken by the Twenty-sixth Special Session was a 6.9 percent budget reduction. Therefore, the General Fund appropriation was reduced to approximately \$955 million over the biennium. The difference between the \$955 million and the \$741 million recommended in the 2011-2013 *Executive Budget* would be approximately \$214 million or a decrease of approximately 22 percent.

Staff notes the tables in the Work Session Document shifts to discussions of budget reductions using the Twenty-sixth Special Session-approved funding level for Fiscal Year (FY) 2010-2011 as a starting point. The NSHE has also consistently used those funding levels as the jumping off point for comparisons they provide in their budget reduction strategies.

The next comparison on page 1 is the concept of governmental support. For purposes of an "apples-to-apples" comparison, governmental support is detailed on page 2 of the Work Session Document, Table 2. For 2009-2011, or the current biennium, governmental support can be thought of as comprising a General Fund appropriation, the federal American Recovery and Reinvestment Act of 2009 (ARRA) funds Nevada received for the State Fiscal Stabilization Fund for Education. The total of the two revenue sources was approximately \$184.8 million. The General Fund appropriation for the 2011-2013 biennium continues. The ARRA funding has ended. However, for the first time, property tax revenues are being included in the budget. The General Fund and property tax revenues combined form the basis for the term "governmental support." From a governmental support standpoint, there is a decrease in funding of approximately \$323 million.

SENATOR HORSFORD:

For clarification, was the ARRA State Fiscal Stabilization Fund for Education money used to replace General Fund support in the 2009 75th Legislative Session? Prior to that session, what was the General Fund or State support for higher education?

MR. HAARTZ:

For what period of time?

SENATOR HORSFORD:

In 2009, NSHE was funded by the legislatively approved governmental basic support. In addition, the one-time ARRA funds were used to replace what would have otherwise been State support. Is that correct?

MR. HAARTZ:

That is correct.

SENATOR HORSFORD:

In the 2009 75th legislatively approved budget, State support was higher than what was approved in 2009 in recognition of the ARRA one-time funding used to help Nevada balance the budget.

MR. HAARTZ:

That is correct. For FY 2008-2009, the 2007 74th Legislature approved approximately \$677 million in General Fund support for NSHE in that fiscal year.

The property tax revenues being considered for NSHE funding and included in the *Executive Budget* represent approximately \$60 million in the first year and approximately \$61 million in the second year of the biennium.

The source of the property tax revenues comes from two sources. The first is the 4 cents per \$100 of assessed valuation operating rate, which is currently being credited to the General Fund. The second source is the 5 cents per \$100 of assessed valuation of capital rate currently being deposited in the Highway Fund and the General Fund. The property tax revenue redirects are only proposed from Washoe and Clark Counties. The remaining county property tax revenues are not included in the Governor's recommended budget. If they were, that would be approximately \$10 million annually of additional property tax revenue if applied across all 17 counties.

A major distinction related to the property tax monies is that the property tax revenue has the effect of offsetting General Fund appropriations. For every \$1 of property tax revenue included in the *Executive Budget*, \$1 of General Fund appropriation is removed. That is different from the ARRA funds which added to the General Fund appropriations approved by the 2009 75th Legislature.

SENATOR HORSFORD:

It has been stated by the Administration that the proposal by the Governor to divert property taxes from Clark and Washoe Counties is being used to replace lost State support funding, not to replace one-time ARRA funding. Is that correct?

MR. HAARTZ:

That is correct. The Twenty-sixth Special Session took two actions related to NSHE budgets. The first was the 6.9 percent General Fund reduction. As approved by the 2009 75th Legislature, the other was replacing ARRA funding. As approved by the 2009 75th Legislature, \$92.4 million in the federal funds was budgeted in each year of the biennium. The Twenty-sixth Special Session moved the FY 2009-2010 funds to FY 2010-2011. The entire \$184.8 million was expended in FY 2009-2010. By moving FY 2010-2011 federal funds to FY 2009-2010, an equal amount of General Fund was removed from FY 2009-2010 and moved into FY 2010-2011. The net effect was that the FY 2010-2011 budget, under which NSHE is currently operating, is entirely supported by the General Fund.

Page 3 of the Work Session Document contains a lengthy table, which provides information on all 26 NSHE State-supported operating budgets. The table begins by listing universities and

colleges followed by the Desert Research Institute (DRI) and the three professional schools. The remaining lines are the other, non-formula operating budgets. This table provides comparisons to assist in understanding the reductions contained in the *Executive Budget* and for which the NSHE preliminary budget reduction plans are based.

The first column lists the 2009 75th legislatively approved General Funds adjusted by the actions of the Twenty-sixth Special Session which provided total funding of approximately \$557.9 million.

The Governor's recommendation in FY 2011-2012, including General Fund and property tax revenue, is approximately \$466 million. The funding for FY 2012-2013 is approximately \$395 million.

We will now move to the second part of the Work Session Document which includes the preliminary budget reduction plans as has been presented by NSHE to the K-12/Higher Education Joint Subcommittee and to the Board of Regents.

SENATOR HORSFORD:

Are there any questions from the Committee on the basic facts as presented?

SENATOR KIECKHEFER:

Regarding the \$557.9 million in FY 2010-2011, does that adjust for the shifting of the ARRA money between FY 2009-2010 and FY 2010-2011? Testimony seemed to indicate all ARRA funding was moved into FY 2009-2010 and FY 2010-2011 was backfilled with General Funds. Is that a significantly higher number than in FY 2009-2010 because of the ARRA funds?

MR. HAARTZ:

In FY 2010-2011, the General Fund appropriation was approximately \$500 million. With the shifting of the General Fund appropriation and the federal funds, the General Fund in FY 2010-2011 was \$592 million. Then the 6.9 percent budget reduction was applied, which reduced funding by approximately \$35 million, leaving the total funding at approximately \$557 million. Therefore, that amount reflects both shifts of the Twenty-sixth Special Session.

SENATOR KIECKHEFER:

Was the General Fund appropriation in 2009 closer to the \$500 million than \$558 million?

MR. HAARTZ:

Five hundred million dollars was provided in each year of the biennium. An additional \$92.4 million in federal ARRA funds was also provided in each year of the biennium. From a governmental support perspective, funding was approximately \$592 million in each year of the biennium.

SENATOR KIECKHEFER:

Were those the budgeted figures when the 75th Legislature met in 2009?

MR. HAARTZ:

That is correct.

SENATOR KIECKHEFER:

Did you state that if the 9 cent property tax was spread across the 17 counties it would generate an additional \$10 million annually?

MR. HAARTZ:

The information provided by the Department of Administration in response to the request from the K-12/Higher Education Joint Subcommittee indicated the additional funding would be approximately \$10 million annually.

SENATOR KIECKHEFER:

Thank you very much for the clarification.

SENATOR SETTELMAYER:

During the Special Session, entities were instructed to consider ARRA funds as one-shot funding to replace General Fund support. Some departments such as engineering have structured their funding in that manner to enable it to move forward through other budget problems. I understand we are decreasing the amount of General Fund revenue potentially appropriated to NSHE due to the current bad economic times. Now a property tax shift is being suggested. On top of that, several students have e-mailed me that they are very upset with the amount of increase proposed for tuition fees. What is the final budget decrease once all categories of funding are combined? It appears the overall decrease is approximately 7 percent based on those theories. Is that correct?

MR. HAARTZ:

I have not made that particular calculation but will be happy to provide it to the members of the Committee of the Whole.

SENATOR SETTELMAYER:

I would appreciate it if you could get that information.

MR. HAARTZ:

I would be happy to do that.

SENATOR SETTELMAYER:

Thank you.

SENATOR HORSFORD:

Could we keep our questions to the material that has been covered by Staff? There is further information to be discussed.

SENATOR HARDY:

When we talked about the \$10 million in added property tax revenue if the other 15 counties were included, I understand the 4-cent and 5-cent property tax revenues are not used by the counties. It is directed to the General Fund and the Highway Fund. Please clarify how the funds are currently being used and how they will be used if this budget is approved.

MR. KRMPOTIC:

Currently, the 4-cent property tax assessment redirected from Washoe and Clark Counties for the current biennium was directed to the General Fund. The 5-cent capital rate changes each biennium per statute. Approximately one-half of that is directed to the General Fund as well based on the 2009 75th Legislature's actions. The other one-half is directed to the Highway Fund for use in funding highway construction projects. The Highway Fund rate was last established in 2007.

SENATOR HARDY:

Would this proposal take money being used by the counties and put it into higher education?

MR. KRMPOTIC:

Currently, the money that is recommended to be added to the budgets of the University of Nevada, Reno (UNR) and the University of Nevada, Las Vegas (UNLV) from Clark and Washoe Counties, is being directed to the General Fund and the Highway Fund.

The \$10 million referenced by Mr. Haartz, regarding the other 15 counties, is currently deposited in the county budgets for those 15 counties.

SENATOR HARDY:

Thank you.

MR. HAARTZ:

The preliminary budget reduction strategies begin on the bottom of page 3 of the Work Session Document. Two scenarios will be discussed. Those are a result of the K-12/Higher Education Joint Subcommittee's request for NSHE to present plans that took two different approaches to reach the budget reduction levels contained in the *Executive Budget*.

The first scenario relates to most of the remaining information in the Work Session Document. It essentially represents operating reductions. It would reduce expenses in instructional areas, academic support, student services, operation and maintenance of the physical plant and institutional support.

The second scenario requested by the Joint Subcommittee was to consider closures and consolidations. We will touch on that as we go through this presentation. You will see that the information referenced both Scenario No. 1 and Scenario No. 2.

Beginning on page 37 of the NSHE document, you will see the budget reductions and templates the Joint Subcommittee requested that NSHE prepare. Page 4 of the Work Session Document contains a table which provides you information anchored at the Twenty-sixth Special Session funding level. It also contains reductions included in the *Executive Budget* as well as for each of the State-supported operating budgets, in the Scenario No. 1 template, the main operating reductions and how they will accomplish reducing their budgets transitioning from 2011 to 2012 and 2013.

For example, on the first line of the table, UNR has a starting point of \$117.9 million. The Governor's recommended budget is \$95.6 million, so the governmental support budget reduction would be \$22.3 million. The reduction shown in the table as proposed in the preliminary budget reductions templates would be \$18.4 million, which does not quite get them there. As you look at the UNR budgets, at the bottom of the UNR row, they have undercut the total by \$1.3 million in the first year and overcut by \$1.3 million in their second year. On a biennial basis, they achieve the Governor's recommended reductions.

As a group of budgets and as a university program, UNR is proposing two approaches. As I noted, one is to adjust the cuts over the entire biennium so that by the end of FY 2012-2013, it nets out. In some budget accounts such as their main instructional budget, which is reflected on the first row of the table, they are proposing not to reduce the budget by the full amount or to cut to the full amount as recommended in the *Executive Budget*, but overcut in other budgets such as the Cooperative Extension row, you will see that the amount being cut is more than what is being recommended in the *Executive Budget*.

The university is requesting flexibility in how to approach the budget reductions from the UNR budget as a whole; whereas, as you will see in the other accounts, the reductions are on a straight line with the Governor's recommended budget. For FY 2011-2012 and FY 2012-2013, the bottom line amounts of \$466 million and the \$395 million already take into account the five percent salary reduction recommended by the Governor, the elimination of merit and longevity pay, as well as a general budget reduction in operating expenditures of approximately \$56 million and \$117 million in the second year. All the reductions recommended by the Governor are included in the bottom line amounts.

Page 5 of the Work Session Document provides limited information regarding the Scenario No. 2 reductions. This was the recommendations for closures and consolidations. The three consolidations considered were Great Basin College (GBC) and Western Nevada College (WNC) into Truckee Meadows Community College (TMCC), consolidating Nevada State College into the College of Southern Nevada (CSN) and UNLV and consolidating DRI into UNR and UNLV.

As you go through the budget reduction templates, you would note large amounts of savings are not identified. There is only \$12.41 million in savings. That is primarily through the consolidation of administrative infrastructure and costs. One part of the consolidations and closures not included in the Scenario No. 2 information is for the CSN and WNC; one of the operating reductions contemplated by both of their plans is the closure of satellite and rural locations as a way to meet the operating reductions required by the *Executive Budget*.

To assist the Joint Subcommittee and this body in summarizing and understanding the primary impacts of the budget reductions as contained in the *Executive Budget*, I have provided a series of tables that attempt to organize the information into several main areas such as the impact to academic infrastructure, the impact to student access and the capacity to instruct students and a staffing impact.

I will spend a brief moment on Table No. 1 on page 5 of the Work Session Document. This table organizes the reported impacts to the infrastructure of each of the teaching institutions they expect will occur. It is organized in terms of academic colleges, schools, departments or

centers being closed; academic programs being eliminated, academic degrees eliminated and course sections eliminated.

Attachment A, on page 10 of the Work Session Document, contains a series of bulleted information for each institution that provides select information on the types of impacts the institutions have identified in their budget reduction plans. Attachment A provides more context to the numbers reflected in Table No. 1 on page 5 of the Work Session Document.

Table No. 2, on page 6 of the Work Session Document, tabulates the impact the institutions predict will occur to their ability to teach and the number of students they will be able to serve. In FY 2010-2011, the left-hand column, their preliminary total number of student full-time equivalents (SFTE) they are instructing this year is 69,023. For clarification purposes, a SFTE is a student who takes 15 credits per semester and 30 credits per academic year. Obviously, not every student is a full-time student. Therefore, to make an unduplicated head count, information on the table in the last row discusses a student head count. Many more than 69,023 students are currently taking classes at the 7 teaching institutions. As you can see, based on the information provided on the budget reduction templates, NSHE predicts they will be able to serve 4,737 fewer SFTE individuals in FY 2011-2012 which translates to 11,638 unduplicated students for the same time.

In FY 2012-2013, they project a further reduction to 61,132 SFTE. That is 7,891 SFTE less than FY 2010-2011 with the student head count representing slightly more than 19,000 unduplicated students who would not be served.

Additionally, part of the information requested by the Joint Subcommittee was to review the number of instances in which students who attempt to enroll in an institution or sign up for a particular class, were unable to gain access a particular course. Page 158 of the NSHE document provides information for each of the teaching institutions regarding the number of instances in which a student was unable to enroll for a particular class over the last couple of years.

Table No. 3, on page 7 of the Work Session Document looks at the staffing impacts projected by NSHE as a result of the budget reductions. Overall, NSHE, based upon the Board of Regents' approved budgets, which are based on the funding approved by the Legislature, have approved 7,163 full-time employees across the System in the 26 State-supported operating budgets. The projections by NSHE are that employees will need to be reduced by 714 in FY 2011-2012 and by approximately 1,100 employees in FY 2012-2013. These are considered full-time equivalent positions (FTE). When part-time equivalents are included, the position impact would be approximately 1,050 in FY 2011-2012 and approximately 1,500 FTE positions eliminated in FY 2012-2013. Some of those positions as identified by NSHE are vacant. The NSHE has held positions vacant as a budget reduction strategy. Therefore, not every position identified has a person associated with it.

The bottom of Table No. 3 provides information on functional areas. The NSHE budgets are divided into functional areas, whereas executive budgets are typically based upon expenditure categories. The two methods are roughly equivalent.

For example, in the area of instructional function, of the 714 FTE positions that would be eliminated in FY 2011-2012, 386 instructional staff would be eliminated. Of the 1,100 FTE positions being eliminated in FY 2012-2013, 544 positions would be in the instructional area. Other functional areas include research, public service, academic support, student services and operation and maintenance.

The three tables summarize in the most succinct way, the impacts of the reductions identified by NSHE institutions and the non-instructional budgets.

For implementation of the budget reductions contained in the *Executive Budget*, NSHE has identified two key issues. Absent a declaration of financial exigency, they are required under the professional staff contracts to provide 12 months notice of layoff. As we get further into these budgets, a concept of bridge or transition funding is discussed. That is the mechanism used by some of the institutions to ensure they can provide the 12-month notice.

The second issue NSHE has identified is that of accreditation. The accrediting body requires the institutions to provide a reasonable amount of time for a student who has not yet graduated, but is in a degree program, to either complete their degree or successfully transition to an acceptable alternative. The term "reasonable" is not explicitly defined, but it is generally

considered to be from 1 year and 18 months or even longer, depending on the unique circumstances. These are considerations from an operating or management standpoint of NSHE.

Page 8 of the Work Session Document contains a short table identifying the bridge or transition funding each of the institutions have identified. The amount of funding required in FY 2011-2012 is approximately \$19.5 million and approximately \$10.7 million in FY 2012-2013. A discussion at the Joint Subcommittee level was the issue of student registration fee increases and fee surcharges. The Board of Regents has not approved either an additional fee increase or a surcharge for either year of the 2011-2013 biennium. The Board has asked the NSHE Chancellor's office to provide information on the amount of additional revenue and the impacts of a 10 percent fee increase, a 13 percent fee increase and a 15 percent fee increase. The information provided in Table 4 on page 8 of the Work Session Document contains the projections for a 13 percent fee increase as requested by the K-12/Higher Education Joint Subcommittee. Several aspects that are predicted by NSHE to occur with imposition of a surcharge including enrollment loss as a result a fee increases is that students would be unable to pay increased registration fees and would no longer continue their education.

The left-hand column of Table 4 lists the 2011-2013, currently approved student registration fees on a per-credit-hour basis for each level of institutions. For example, currently, as included in the *Executive Budget* and approved by the Board of Regents, a university undergraduate in the next biennium will pay \$156.75 per credit hour. However, a student enrolled in a lower division course at a community college will pay \$69.25 per credit hour. If a 13 percent surcharge is approved by the Board of Regents and imposed, those undergraduate credit hour fees would increase for the university undergraduate by \$20.38 per credit hour; and the community college student fee would increase by \$9 per-credit hour. The third column of Table 4 shows the total per credit hour fees students would pay including a 13 percent surcharge would be \$170.13 as an undergraduate at a university in FY 2011-2012 and \$78.25 at a community college for the same period.

The Board of Regents has also been presented information that includes an additional 13 percent surcharge for FY 2012-2013. That means a further increase in the surcharge in each year of the biennium. You can see the impact between where we are today compared to what is included in the *Executive Budget* and formally approved by the Board of Regents.

One discussion at the Joint Subcommittee level was how the fees charged by NSHE compare to the western region median and average among the Western Interstate Commission for Higher Education (WICHE) states with the thought being perhaps Nevada's fees were lower than what is charged in other states. If the 13 percent plus 13 percent surcharge was ultimately approved, a student attending UNR or UNLV would pay roughly the median as their peers would in other WICHE states based upon the current academic year. As this body is aware, these budget discussions are occurring in many states. Depending on what other states enact, Nevada may retain its relative position compared to other states. In the alternative, Nevada may in fact, pay slightly more or slightly less. Imposing a surcharge of this amount would make Nevada's fees roughly comparable to the median WICHE state fees.

Page 9 of the Work Session Document shows the impact in terms of dollars of the expectations with a 13 percent surcharge and a further 13 percent surcharge in the second year of the biennium. The tables are self-explanatory. They show adjustments for a 15 percent set aside to assist students requiring financial aid, estimating enrollment losses and adjusting the revenues contained in the *Executive Budget* to make them consistent with FY 2010-2011 as compared with FY 2009-2010, on which the *Executive Budget* is based. Approximately \$19.3 million in additional fee revenue would be expected as a result of the surcharge in FY 2011-2012 and approximately \$40 million in additional fee revenue would be anticipated in FY 2012-2013.

Page 10 of the Work Session Document provides information on the anticipated operating impacts of these budgets.

SENATOR HORSFORD:

A few of our speakers have time constraints so if the body would hold questions until after the next panel, we will recall the Fiscal Staff to the podium. We will now hear from the Chair of the Chancellor's Business Round Table, Mr. Phil Satre. In addition, in Las Vegas we have Mr. Kirk Clausen, Mr. Glenn Christensen and Mr. Michael Saltman to testify at this time.

Thank you for your service on the Chancellor's Round Table, Mr. Satre. I know you have led a group of business leaders to help advise the Chancellor on a number of issues pertaining to NSHE including how to better streamline their programs, how to better align them to economic development efforts and how to address the sustained budget reductions. We want to hear your perspective as a voice that is intricately involved in these issues, but from whom we do not always have the opportunity to hear testimony in this body.

PHILLIP SATRE (Chair, NV Energy, International Gaming Technology, Director, Nordstrom Incorporated):

I am here today to ask for your support for NSHE and to consider alternatives to the *Executive Budget* proposed by the Governor. I have lived and worked in northern and southern Nevada for the better part of 36 years. During that period, it has been clear to me that both UNR and UNLV have been on a consistent upward trajectory. The proposed budget reductions will have a long-term, possibly permanent, negative impact on higher education in this State and set back many years of progress the System has made. Why do I care?

As mentioned by the Majority Leader, I am Chair of the Chancellor's Business Round Table, so I guess you could say it is my job. Nevertheless, I have other jobs. I currently serve as Chairman of the Board of two Nevada-based public companies: NV Energy, Inc. and International Game Technology (IGT). I also serve as a Director of Nordstrom, Inc. which has substantial retail operations in Las Vegas. Prior to my role at these companies, I spent 25 years at Harrah's, now Caesar's Entertainment. For most of those years, I was either the Chairman, President or Chief Executive Officer (CEO) until retiring in January 2005.

The companies I am involved with have a substantial stake in Nevada's future. We have, in the aggregate, over 7,000 employees in this State. Our employees send their children to Nevada schools, both K-12 and postsecondary. These businesses hire many of our employees from Nevada's high schools, community colleges and universities. Without question, all of these businesses have a significant stake in this State's future and therefore a stake in NSHE.

Let me give you a few examples: I was CEO of Harrah's when we made, in conjunction with Bill Harrah's widow, Verna, the naming gift of \$5 million for the William F. Harrah College of Hotel Administration at UNLV. This gift was made in 1989. I am very proud that Bill Harrah's name is on that hotel school, now one of the nation's best. Many of the school's graduates populate our State's largest industry. Former Chairman Charles Mathewson and IGT provided \$10 million for the naming gift that enabled the construction of the magnificent, state-of-the-art, Mathewson-IGT Knowledge Center on the campus of UNR.

More recently, NV Energy has made gifts of more than \$1 million to both the UNR and UNLV institutions for renewable energy programs. A gift to the UNR College of Engineering will support the growth of the renewable energy program, including faculty positions to research renewable energy and funds for workforce development efforts. We have also made gifts to TMCC, DRI, and GBC. All of the initiatives funded by the NV Energy gifts are critical to the future of economic development in Nevada.

Finally, like so many others who have been fortunate to prosper in this State, my wife and I have personally contributed over \$1 million for scholarships and grants to NSHE schools. We have done that because we have been inspired by the leadership of these institutions, their mission and by their students.

When gifts of this magnitude are made, I think there is an implicit expectation of continued government support. Without that implicit promise of sustainable support, it would be difficult, if not impossible, to attract private support in the future that will be necessary for this State to continue to prosper.

The companies I have mentioned have been in Nevada for decades. In fact, NV Energy has been in the State for over 100 years. We are all here for the long term and we are all committed to this State. We are proud to have been a part of the building of the university system. We have

its graduates in our executive suites, among our managers and supervisors, on our front lines. Our children attend these colleges and universities. We want to help build, as we have over the past 20 years, a university system that will serve Nevada's future.

We are realists. When the financial crisis took root in 2008 and 2009, the businesses I referred to saw their revenues and their profits decline sharply and painful decisions had to be made. Those painful decisions included curtailing programs, eliminating benefits, reducing capital spending and eliminating jobs. However, we believe, just like the businesses that had to meet the challenges of this great recession, that we could not make cuts so deep that we disabled our competitiveness and thwarted rebuilding, renewal and recovery when the economy recovered. Had we and other businesses in the private sector gone too far in cutting jobs, cutting capital investments and eliminating programs, Nevada's economic recovery would be in even greater jeopardy.

That is just what the full impact of these reductions in the *Executive Budget* will do to NSHE, placing the quality of higher education at too great a risk for our future. It will not make our State stronger; it will not make us more ready to recover. It will make us weaker and extend the period required to recover from the economic downturn in this State.

To use a metaphor from my days at Harrah's, "All of you in this room have been dealt a tough hand" when it comes to the 2011-2013 budget. These years are not going to be easy for this State. I am sure for all of you, for Governor Sandoval and for your colleagues in the Assembly; it feels as if your hands are tied, particularly with the obligation to present a balanced budget.

However, rather than allow it to be a foregone conclusion that we cannot afford a vibrant economy, a vibrant educational system and a better Nevada, I ask you to recognize that you have been elected to use your intellect and your resourcefulness to decide what Nevada's future will be. In business, we no doubt have greater latitude to invest in the promise of future revenues, but that does not mean you cannot exercise judgment and creativity. Although I was not a part of the process or the decision-making, I would endorse the position taken by the Las Vegas Chamber of Commerce last week. "Additional tax revenue may be necessary, particularly when linked to significant and meaningful reform that will fix systemic problems in our State."

SENATOR HORSFORD:

I also want to hear from representatives in Las Vegas. I do not know if they are a part of the business round table, but we want to allow them an opportunity to speak. Please come to the table in Las Vegas and identify yourselves.

KIRK V. CLAUSON (Regional President, Wells Fargo, Nevada and Chair, Henderson Chamber of Commerce):

We came out several weeks ago in support of higher education, similar to the Las Vegas Chamber of Commerce action. I would like to lever off the previous speaker in terms of the reason we are here. In general, we are in support of higher education.

Wells Fargo has about 3,700 employees in Nevada right now. Many folks are surprised by that. A very large number of them are graduates of our higher education system, particularly UNR and UNLV. These are tremendous folks who came to us well prepared. We try not to mix them because of the rivalry, but they do a tremendous job for us. Several of these individuals hold key positions in our company. A couple of names you may know include Jay Kornmayer, who runs our gaming division, not only nationally but internationally; Jeff Ardito, our private mortgage manager and Brian Formisano, a UNLV graduate, manages a large district in southern Nevada. There are dozens of others I could mention.

The Las Vegas community continues to grow in spite of what has been going on economically. It is essential that we have a comprehensive research university in this community. Today it is somewhat underserved with only one institution. That is fine, but we need that institution to be healthy, vibrant and growing. The role UNLV plays in the community is critical when it comes to economic recovery and diversification in the future. In fact, I cannot imagine we can come out of the economic downturn faster without the university. Diversification cannot happen without a vibrant university in place.

This past Wednesday, the President of UNLV and his team hosted an on campus meeting for Las Vegas Chamber members and key business leaders. I happened to be invited as well. It was a tremendous experience to tour the facilities, hear students speak, hear about the programs that

are in place and, as someone said, "it is one of Las Vegas' best kept secrets in so many ways." If you think about it, neither Reno nor Las Vegas are thought of as college and university towns. This campus really is a treasure of which we should take better advantage.

In my opinion, higher education is not just a budget item. It is truly an investment in our communities. Speaking from a Wells Fargo perspective, we have made incredible investments in the entire higher education system.

As an example, Wells Fargo provides over \$170,000 annually in scholarships. The scholarships often go to first generation low- to moderate-income students. The best part is, once a student has earned that scholarship, it remains with them through graduation. We provide tuition reimbursements of roughly of \$100,000 annually for our team members throughout the State. Beyond that, we have underwritten millions of dollars in sponsorships and programs. I would ask you to do everything possible to ensure we can sustain this university system.

GLENN CHRISTENSEN (Chairman, Nevada Development Authority):

The two greatest challenges in our community today are economic development and education. Higher education is inextricably linked to attracting, expanding, retaining and diversifying the economy of southern Nevada.

Those in leadership who came before us had the wisdom to implement a three-tier structure in our State with educational opportunities at the research institutions, teaching universities and community college levels. The structure was created for several reasons, not the least of which is that it is by far the best structure to enhance economic development in our State.

Higher education plays a critical role in southern Nevada's economic recovery and is a critical economic resource to our community through educating the local workforce, fostering innovation and discovery. For example, as a research institution, UNLV generates important grants and outside funding which help attract diversified businesses. I attended the meeting this week mentioned earlier by Mr. Clausen. All the leaders left that meeting with an even greater understanding of and respect for UNLV's impact on southern Nevada. Higher education is not just a budget item. It is an important component to the southern Nevada economy and its recovery. It is my understanding that including multiplier effects, UNLV alone generated \$1.15 billion in economic activity for southern Nevada in 2009. For every dollar of State allocated funds, the university demonstrated \$5.80 in economic activity in southern Nevada. That is a phenomenal return on investment. The other institutions also have a very strong economic impact.

Given my extensive financial background, I fully comprehend the depth of today's economic challenges. What I do not understand is severely damaging an important lifeline for returning our community to its previous status as an economic powerhouse and the envy of the entire country and further disadvantaging Nevada as we compete in a national and international economy.

I firmly believe in the critical importance of collective economic well-being to the three-tiered system of higher education in this State. I have dedicated both time and money to demonstrate those beliefs. I am Chair of the Nevada State College Foundation. My wife and I currently fund four full-ride scholarships at that institution.

In another setting, I would love to talk to you about the great things we are doing at Nevada State College, where we are educating the next generation of professionals in our State. I have been President's Associate at UNLV since the mid 1980s, an advisor to the business school and I recently participated in a selection committee for the new director of the Center for Business and Economic Research, where I am a long-time sponsor. I am also a member of the Chancellor's Business Round Table.

I know you have a difficult decision to make with respect to the budget. You have many things to consider in arriving at a final conclusion. I hope that at the top of the list is the fact that higher education is directly linked to the economic health and job growth of our community. Our three-tier-system in southern Nevada — UNLV, Nevada State College and our community colleges are imperative to our community today and the one we want in the future. We need these schools now more than ever.

MICHAEL SALTMAN (Vista Group):

I am a long-term resident of Las Vegas. I have been in Las Vegas since February 10, 1975. Like many of my friends, I have adopted UNLV as my university. I am also a member of the Chancellor's Business Round Table, so I am fully on board regarding Mr. Satre's earlier comments.

Thank you for giving me the opportunity to express my views, albeit briefly, regarding higher education in Nevada. There is no question that I am higher education and, to the extent of UNLV—UNLV-centric. For over 25 years, I have been a UNLV Foundation Trustee. I serve on the Executive Committee. My company, the Vista Group, has given the Vista Group award. In fact, April 20, 2011, marked the 26th year for making the award to the outstanding liberal arts graduate at UNLV. Recipients have dispersed worldwide and established themselves as impressive individuals with their UNLV degrees.

I am also on the William S. Boyd School of Law Advisory Board. The Law School is now ranked 71st in the country under the leadership of Dean John White and former Dean Dick Morgan. My wife and I are the founders of the Saltman Center for Conflict Resolution, which is now ranked ninth in the country. My wife is also a graduate of UNLV and has a master of arts in psychology. Like Mr. Satre, we have given more than \$1 million to various portions of the Law School and UNLV.

My first projects in Las Vegas were at and around UNLV. It is my submission that the heart and brain of southern Nevada is UNLV. Thriving cities and economies need strong universities. Every major city in the country and the world sees and understands that. That includes our neighbors in Reno and in Phoenix—where the Mill Avenue Project for Arizona State University was initiated. That is my model for the future of the Midtown Project in Las Vegas around UNLV. Other such cities are Tucson, Salt Lake City, Denver and Albuquerque. The Intermountain States all recognize the absolute significance of a major university in their cities.

UNLV is indeed an economic engine through job creation, diversification and quality of life, all of which can be leveraged from the intellectual capital at and around UNLV. As Mr. Christensen noted previously, more than \$1 billion in economic activity was generated in southern Nevada during 2009. Obviously, that was a down year in the economy. We are looking at a future with increased economic activity in southern Nevada through UNLV's significant contributions.

For every dollar of State funds invested in UNLV, and for that matter, NSHE, UNLV is generating more than \$5.80 in economic activity in southern Nevada.

Paraphrasing Dr. Smatresk's recent comments, "UNLV and higher education will clearly lead the way into a better and brighter future in economic diversification." I trust you will take these comments and others like mine into consideration as you arrive at your final budget and the funding of and investment in the higher education programs in Nevada, north and south.

SENATOR HORSFORD:

I really appreciate the voice of the business community being a part of this dialogue. We hear from you as representatives individually, but sometimes it is important to understand your perspective as a collective body.

On behalf of the State, I appreciate the contributions each one of you have made as individuals as well as in the capacities in which you serve as management of major Nevada-based business interests. It is because of that private investment that we have been able to build a strong foundation, not only for higher education, but also for other functions in this State.

What I am hearing this morning is that you are asking us to continue our public and private partnership in sustainable ways. The Legislature needs to ensure a basic level of support so that the private sector investment will continue to be offered and can be leveraged in a much larger and impactful way.

SENATOR SCHNEIDER:

I have a question for the panel in the south. What I am hearing is that you are requesting us to keep our investment level the same or greater in secondary education to supply you with an educated workforce for your businesses. Are the businesses of Las Vegas, including Wells Fargo and the other executives, willing to consider corporate or income tax impositions?

MR. CLAUSEN:

It is interesting that you ask me that question because as a banker, in 2003, we certainly stepped up to additional taxes. The industry has demonstrated we are willing to invest in the community. As the Chair of the Henderson Chamber of Commerce, I can provide some valuable feedback.

As I talk to members, depending on how the question is structured, they are almost universally supportive of higher education. When you say to them, "Are you willing to let our university or system of higher education decline or find mediocrity?" They will generally say no, that is not what they want to have happen. If they can be assured the taxes they are already paying to the State are being effectively and efficiently spent, they are willing to come to the table to talk about additional taxes to sustain NSHE.

SENATOR SCHNEIDER:

I have a question for Mr. Satre. When I buy a suit at Nordstrom's in California, the store must pay corporate tax, income tax, inventory tax and others. Their workers' compensation rates are also high. Is Nordstrom's willing to pay similar taxes in Nevada? They currently pay none of those taxes in this State.

MR. SATRE:

I am not speaking on behalf of Nordstrom's because I am not the Chairman or CEO of that company. My position is a director. All of the companies in this State with which I am affiliated, want Nevada to flourish and we understand there is a cost for that, particularly as it tries to recover from this recession. I would say to the Legislature, in general, my position as a board member of those companies and as Chair of two of them, is simple. If we need to resolve the problems created by this recession, we may have to entertain broad-based business taxes to help us fill some of those gaps between what are reasonable changes; reforms I think you have insisted on, reforms to which NSHE has responded and other reforms outside NSHE as well. Many of those are contained in the Nevada Spending and Government Efficiency Commission report which I support. In combination with those reforms, we recognize that there may have to be a broad-based business taxes that brings funding to a level of support to sustain these universities and community colleges on a going-forward basis.

SENATOR SCHNEIDER:

When I was in Denver, Colorado for a conference, the news noted the people who are unemployed are returning to school at colleges and universities. That state is preparing to increase funding to assist students who are trying to better their situations. It is similar to what we are facing. This seems like an inappropriate time to be reducing funding to education.

SENATOR HORSFORD:

I want to thank our panel in Las Vegas. We appreciate their being here and seek to have them continue to participate in the process in the concluding days and weeks of this session. Next, we will hear from a student representative. The Senate Committee on Finance has heard time and again from the presidents and the administration of NSHE and we will continue to hear from those entities. However, the decisions we will make will impact the students most. We have with us a student from UNR. She is from Las Vegas. She has an incredible background story. She exemplifies and represents thousands of other students in similar situations.

BEATRIZ AGUIRRE (Student, UNR):

I am a native of Las Vegas, a social work student at UNR and President of the Undergraduate Social Work Association.

I come from very humble and hardworking beginnings. My parents have worked hard to allow me the opportunity to become educated and study something I am so passionate about and believe in so strongly.

I believe education is the only way for Nevada to progress. It is the only way for us to have a good future in this State. As we talk about jobs and the ability to diversify the economy and bring more businesses into this State, we cannot cut education. Education and jobs go hand in hand in creating an educated workforce.

As social work students, we have had several conversations with many members of this body. We were here one week ago to hand-deliver petitions from every district in the State. Those constituents were asking their representatives to support revenue increases and fund education. Many of our conversations, with Republicans or Democrats, show that education is highly valued in this State. However, the funding is not there right now.

Whether we are from the north or the south; whether we are Wolf Pack alumni or Rebel alumni, we need to work together to fight for this State to have a better future. That will only come through education. As students, we would accept a reasonable tuition increase to share the burden, as long as the funds stayed on the specific campus and directly fund education.

Much of the burden will be on students in the schools as we see many programs being cut and professor positions are being eliminated. If we are going to share that responsibility, we would like to see that business and other community partners stand up and share the responsibility to fund this State.

I have heard several discussions about the budget reductions concerning which programs are retained and which programs are eliminated. As social workers, we believe both the schools of social work at UNLV and UNR must be maintained. There are many different needs throughout the entire State; therefore, both universities are needed. There have been increased needs for many services to Nevadans because of the economic situation. If these programs and services are cut, we will be unable to serve as many individuals.

If we want to see a prosperous Nevada, we must invest in education. I believe the time to do that is now, not holding it off until the next Legislative Session, when we may find ourselves in the same position.

SENATOR HORSFORD:

Thank you for being here and sharing the students' perspective of what these cuts mean and the willingness of students to step forward and share some burden of increased tuition in balance with responsibility of others to do the same.

We will now hear from the Chancellor of NSHE and any of the NSHE presidents who wish to speak. Following that, we will hear from the Administration's Chief of Staff and Budget Director.

DANIEL J. KLAICH (Chancellor, Nevada System of Higher Education):

Thank you for this unique opportunity to address all members of the Senate today. Before I begin, I would like to personally thank you for suspending business yesterday afternoon to enable members to attend the memorial service for Dr. Milton Glick. It meant a lot to Mrs. Glick and to her sons.

I would like to begin by stating the obvious. We understand there is an economic crisis in Nevada, perhaps the worst in our history. We must balance our budget. We understand that will require significant cuts to spending throughout the budget and painful sacrifice that is appropriately shared by all Nevadans.

Having said that, our challenge, and yours, is to navigate these difficult waters in a way to preserve core services including education and to serve our State well in recovery. I am here today to discuss how those of us in higher education intend to do that, with your help. Like most Nevadans in both the public and private sectors, public higher education arrives here today after more than three years of heavy budget reductions. Over that time, while enrollments and fees have increased and salaries have been frozen or reduced by furloughs, NSHE's General Fund support has been reduced by about 20 percent. Our presidents, working closely with their faculty and students and under the supervision of the Board of Regents, have implemented budget reduction plans aimed at protecting faculty and classes for students. Reductions have been made in capital, equipment, maintenance, support services and administration to protect these critical classroom functions.

In the process of protecting faculty to the best of our ability, we have also worked diligently to protect research. Ironically, one result of these plans aimed at preserving the access and quality of the student experience, is that it has left many, if not most, ordinary Nevadans thinking there has been no impact on our colleges and universities. In fact, with General Fund appropriations reduced about 20 percent, and enrollments increased system wide, we have eliminated nearly 9 percent of the State-funded positions. Like many Nevadans, we are being

forced to do more with less. With less of our star faculty and matching funds required for research grants, our research and development has decreased in the last two years by 11 percent. I mention these facts, not to complain, but to emphasize we are not reviewing the reductions in the proposed *Executive Budget* on a clean slate. Rather, we are considering this budget from the vantage point of three and a half years of painful reductions. Against this backdrop of continuing budget reductions, the Board of Regents, the presidents and I have prepared a strategic plan for aligning system goals with that of the State in a time of constrained resources. I have distributed a copy of that plan to all Senators. Therefore, I will not repeat it in detail today.

We must produce more graduates in less time. We must have more sponsored research. We will move to market-based fees and create differential fees for select programs with authority to direct the spending of those fees where they are generated. We would like to see a stabilization fund created for higher education to plan for the inevitable time when we will again experience a reduced economic cycle. We are involved in a continuous review of all processes and programs for maximum efficiency, effectiveness, transparency and assuring the taxpayers of Nevada that we wisely spend every dollar we are allocated.

We will establish structures that will align the goals of the State, higher education and private business to assist in economic development and diversification. That effort is already well underway with the bipartisan effort introduced approximately two weeks ago with Senate Bill No. 449.

We believe we must have more intense and seamless partnerships with public education and that every element of this plan must be built on recognized and well-communicated metrics for performance and reporting those to the Governor, the Legislature, the Board of Regents and to the citizens of Nevada. We are committed to holding ourselves accountable to well-defined and rigorous goals. Our plan is not a business-as-usual plan. We are committed to significant reform in academics, in finance and in administration. Students in this State will see significant differences in how we have operated.

We have called for a legislative and gubernatorial partnership to a complete review of the funding formula and for the method of State fund allocations. We must recognize the different missions and fund them appropriately. We must let data indicate if there are inequities or disparities without reason and correct them. Funding must be based on enrollments and performance in critical areas such as course completion. Reform and funding must go hand in hand. Every policy on funding and budgeting should be analyzed to support a more entrepreneurial structure which recognizes the fact that public higher education must move; and we will move, to a more self-sustaining model in the future. However, we cannot, at the same time, disadvantage students by offsetting General Fund monies with fees and out-of-state tuition while we become more entrepreneurial. In this context of reform and change, to which we have committed our future, we must discuss whether the budget before you advances that reform and ultimately the interests of higher education in Nevada. I would submit to you that it does not.

In the Work Session Document and the NSHE document reviewed earlier today, we have submitted plans for reductions in our budgets as required in the *Executive Budget* by \$162 million by the end of the current biennium. Let me tell you briefly what those reductions will mean from an NSHE standpoint and what they will mean to your constituents. It will supplement the Work Session Document.

The proposed budget reductions will dramatically impact higher education and in particular access to higher education. It is important for you to understand the cuts to the levels proposed in the *Executive Budget* will result in an entirely new model for higher education in Nevada. We believe it is one not in either the short- or long-term interests of this State. In the short term, it will lead to greater unemployment and withdraw critical dollars from our economy, worsening and prolonging Nevada's economic agony; rather than assisting in its recovery. In the long term, this model will reduce access and opportunity to thousands of Nevadans by either limiting enrollment or pricing higher education out of their reach. Therefore, it will limit the educated workforce needed to move our economy forward and to recruit and retain the businesses we want here in Nevada.

One of the cornerstones for higher education has been our commitment, along with the commitment of the Governor, to the Complete College America consortium. The consortium is dedicated to producing more graduates with different methods of academic reform. It is a

combination of states, working together, to use what I have referred to in the Joint Subcommittee hearings as the "CASE method" — copy and steal everything by looking at best practices throughout the country and incorporating them in higher education in Nevada. With this budget, our continued participation in the consortium and our goal to produce more graduates will be in jeopardy along with the potential loss of a number of grants designed to assist us in this effort.

You know, because you hear from constituents and you let us know, that enrollment in this system has been effectively capped for a number of years as a reduced number of available classes have filled and fees have increased. The reductions we are facing will multiply our enrollment challenges. Our colleges and universities report that faculty and staff reductions will cap enrollment levels across the State at unprecedented numbers.

Students who are clearly qualified for entrance into any of our institutions will be denied entrance. They will be turned away in greater numbers than ever before. This will not only be true at the universities, but at the State college and the community colleges. This will impact the access mission of those ladder institutions.

We will develop strategies to deal with this change at our colleges while still being sensitive to our diverse student population. That may include admissions tests and a requirement for high school diplomas. But, the underlying reality is we will be turning Nevadans away. We simply cannot serve everyone at this level of reductions with any promise of quality in their educational experience.

I work with presidents, faculty and students to bring recommendations to the Board of Regents striving for fundamental fairness in ensuring students will be able to attend higher education and given the opportunities to whatever extent possible. We will be particularly mindful of low income and first generation students who are disproportionately students of color. With this budget, we will no longer pretend that any student who is qualified for acceptance will have access to the classes, support services, financial aid and ultimately a degree. We will give priority in registration, to need-based financial aid and the opportunity to complete a degree or a certificate to full-time attending students.

Unfortunately, we will need to seriously evaluate the transfer mission of our community colleges in light of this new reality. We can no longer guarantee that every student who qualifies to transfer from our community colleges to our State college or universities will have the ability to do so. If our promise to students is the ability to reasonably complete their course of studies and obtain a degree within a reasonable period, we must avoid upper division bottlenecks that could result from unlimited transfers. In addition to these limits on student access, we will offer fewer classes at fewer locations. This could particularly impact rural locations that will suffer as our colleges focus their limited resources on serving the greatest number of students. We will do our best with technology to continue providing offerings, but live classes will be significantly diminished.

As Mr. Haartz indicated, we anticipate a drop in enrollment in excess of 15 percent over this biennium based on program elimination, faculty layoffs, site closures, fewer classes offered, increased fees, inadequate tutoring and support services. Until resources improve, this decrease will represent a cap on enrollment. We anticipate more than 20,000 qualified students, equaling approximately 8,000 SFTE individuals who wish to take advantage of higher education, will be turned away. They are either students who will have to leave this State to attend postsecondary institutions and likely not return, or students who will just never go to college.

Research and workforce grants in this State will in all likelihood continue to decline as resources for matching funds dry up and as our best and most entrepreneurial faculty are cherry-picked by other institutions across the nation. We have consistently advised policy makers that this selective destruction of our best faculty has already begun, and should be expected to accelerate. The impact will not only limit economic expansion that innovative research can foster, but will negatively impact our leveraging capability by reducing revenues that research institutions can generate to help themselves produce budget support.

We pledge our best efforts to work with private businesses and the State economic development infrastructure but we want to be clear that fully supporting business initiatives while retrenching across the board is simply not possible. You know that many of the difficult decisions we are forced to make will bring out constituent voices. They will object to individual, center, program and institutional closures and consolidations. I am sure you are already hearing

those voices. We are too. Every action is taken with a strong awareness that we are losing or reducing programs valuable to Nevada. We do not believe there are any good or easy choices here.

Throughout this process, I have promised to be honest with you. I have told you we will not say something we do not intend to do, or put something in front of you on which we are not prepared to follow through. I have outlined what our presidents are required to do to make cuts to achieve these levels. Diminishing and cutting higher education is bad for Nevada. I hope that we can work together to significantly mitigate these impacts, however, with the funding that appears to be available today, we believe the steps I have discussed will be essential.

I understand this is a hearing on the NSHE budget and not taxes, but I would like to make a brief comment regarding the potential of new funding, a topic which is consistent with the unanimous resolution of the Board of Regents that Mr. Byerman read into the record at the beginning of this hearing.

Somehow, the discussion of whether or not there should be additional new taxes in Nevada has gotten intertwined with sunsets on existing taxes. I have outlined dramatic and long-term impacts on higher education and I am sure you have heard similar stories from public education, health and human services and other budget areas. We are talking about a budget that is built on giving a tax cut in the upcoming biennium to the largest businesses in this State by allowing the existing tax rates to sunset. To make matters even worse, the businesses now paying those taxes, whose tax bills will be reduced, will lose the ability to deduct those taxes on their federal returns. In short, while we will have huge cuts to critical services in Nevada, we will be giving large tax breaks to Nevada's biggest companies and sending a portion of those dollars to Washington, D.C., where we will never likely see them again. I cannot see where this is good policy or how it helps ordinary Nevadans secure services, including the education they want and need.

There are revenue solutions available for the future that can forestall some of these cuts to our colleges and universities and we ask that you consider all possibilities as you deliberate in these extremely difficult times. We have been searching for every idea to keep from destroying public higher education in this State.

In that regard, I would like to present to you a four-point plan for funding higher education in the upcoming biennium that I think fairly embodies the shared sacrifice that has been discussed in detail. Implementation of the four-point plan can assist in mitigating the worst impacts of the budget reductions outlined today. It will require the legislature's action and support.

No. 1: I ask that the dollars allocated to NSHE for the biennium be appropriated equally in each year of the biennium. Averaging or smoothing appropriations in this fashion will not cost the State \$1 over the biennium and will change the target of our reduction in FY 2012-2013 from \$430 million to \$395 million, a net positive change of over 7 percent without costing the taxpayers of Nevada even \$1.

No. 2: We will ask that students and their families pay a greater share of the cost for higher education. As Mr. Haartz indicated, most of the institutional plans submitted to the Board of Regents and to your Joint Subcommittee on Higher Education have included recommended increases of student fees by 13 percent each year, netted by a 15 percent set aside for financial aid to ensure access to those most needy. This will include a set aside to ensure the opportunity for higher education is not foreclosed.

No. 3: We commit that our entire system of public education, each institution, will implement permanent operating reductions in an amount at least equal to the contribution we are asking our students to make.

No. 4: We ask the State of Nevada to infuse additional General Fund support into our budget in an amount proportionate to the permanent reductions and the increased student fees. This plan includes the reduction of salaries across the board as indicated in the *Executive Budget* for all State employees. Taken together, I believe this plan represents a reasonable sharing of the burden of this current situation among students and their families, faculty, our colleges and the State.

If this plan is implemented, we will protect higher education to the greatest extent that can be expected in these times. We will promise academic and financial reform that will produce

greater efficiency in all of our operations resetting the financial and social compact among the State, the Legislature and the students of Nevada.

I will close with these comments. We come to you today and ask that you hear us, that you believe us, and that you partner with us to save our children's and grandchildren's opportunities for college and a brighter future. That is the very same opportunities all of us have enjoyed to this point. I have provided my written comments in a memorandum dated April 5, 2011 from the Board of Regents and the Joint Subcommittee on K-12/Higher Education.

SENATOR HORSFORD:

I appreciate your remarks, particularly the four-point plan. I want to drill down on that further. Is the 13 percent a fee surcharge in tuition? We do not charge tuition to in-State students. How much would a 13 percent surcharge in each year of the biennium represent?

MR. KLAICH:

In dollars?

SENATOR HORSFORD:

Yes.

MR. KLAICH:

Mr. Haartz has indicated that revenue would be approximately \$40 million, taking into account a loss of approximately \$9 million in tuition due to potential loss of enrollment. We are shooting at a bit of a moving target. On the basis of current enrollment, the revenue would be approximately \$50 million. Therefore, the revenue generated would be approximately \$40 million to \$50 million in the second year of the biennium.

SENATOR HORSFORD:

If I heard you correctly, the tuition increase of 13 percent would generate \$40 million to \$50 million in additional revenue. The System is prepared to make reductions in its operating expenses of an amount equal to that tuition increase in an amount of approximately \$40 to \$50 million. Is that correct?

MR. KLAICH:

Close to that.

SENATOR HORSFORD:

In addition to that, is your request to increase State support beyond the Governor's recommendations equal to that impact, or an increase of what amount?

MR. KLAICH:

Approximately \$50 million in the second year of the biennium.

SENATOR HORSFORD:

Is that increase in State funding requested only in the second year of the biennium?

MR. KLAICH:

There is money in the first year of the biennium. I am not laying any hard figures on the table. I assume you will all want to discuss the exact funding. I am discussing a partnership.

SENATOR HORSFORD:

How much funding is needed in each year of the biennium in order to better manage the impacts of those reductions? Help us to understand operationally what that means. The Governor's budget calls for a reduction in the second year of the biennium of up to 30 percent. What would averaging the allocations over both years of the biennium enable NSHE to accomplish?

MR. KLAICH:

The General Fund appropriations in the Governor's budget ranged from approximately \$558 million to around \$460 million in the first year of the biennium and then to approximately \$395 million or \$396 million in the second year. I would like to acknowledge that that budget

was initially constructed in that fashion after discussions with System representatives. The Governor presented the budget in that fashion because he was trying to provide a safe or soft landing for budget numbers. It did not work out as planned once the budget numbers were presented.

Rather than a budget reduction target in year two of the biennium, if you simply average the reductions over two years, that target will be \$430 million. That will require NSHE to accelerate some cuts into year one of the biennium. The NSHE will need to accept approximately \$35 million of additional reductions in year one of the biennium, but they will not be cut in year two of the biennium. Our budget will be at a higher level overall on a second year funding basis and on a going forward basis. Some of the deepest reductions will be avoided through that mechanism.

SENATOR HORSFORD:

Attachment A of the Work Session Document provided by our Staff outlines scenario No. 1 which is the reduction of academic programs based on the Governor's recommendations and the impact listed by institution.

Am I to understand Scenario No. 2 contains some of these proposals and administration consolidation that results in about \$12 million of basic support savings? A specific list has been provided of what will happen under Scenario No. 1. I am not as clear what happens in Scenario No. 2, which is the consolidation and closure of campuses.

MR. KLAICH:

The Board of Regents and NSHE are planning on multiple tracks, as is the Legislature. One of the initial assignments the Board of Regents gave to me and my staff was to research the potential for savings available by consolidating or merging certain institutions. We provided that information to the Board of Regents and have received input from the institutions potentially impacted. That is the source of the approximately \$12.4 million identified by Legislative Counsel Bureau (LCB) Staff. The Board of Regents has taken no action to close any institution at this point.

SENATOR HORSFORD:

What is the situation that would trigger the closure or consolidation of institutions?

MR. KLAICH:

In my opinion, Nevada has a good system of higher education. It recognizes and serves the needs of our communities throughout the State. If a worst-case scenario budget is adopted, the Board of Regents has reserved the potential for making decisions that some of those institutions may not be capable of continuing under certain funding levels. In that case, which I find undesirable, these savings could be reallocated to other institutions in NSHE.

SENATOR HORSFORD:

By "these savings" are you referring to the approximately \$12.5 million identified by our Staff?

MR. KLAICH:

That is correct. However, the estimated savings of \$12.5 million will not be saved on the first effective date of the new budget. There are notice provisions, accreditation issues and others issues that compound the situation.

SENATOR HORSFORD:

Under the Governor's budget, State support for higher education which, even at the current level of services approved by the 2009 75th Legislature and adjusted through actions of the Twenty-sixth Special Session, was 20 percent. Under the proposed *Executive Budget*, State basic support for NSHE would be reduced to 12.8 percent. I am aware there has always been a concern regarding the overall percentage of State support reduction because of the message that sends.

From a policy standpoint, what is your opinion of going from a 20 percent level of State basic support to a 12.8 percent level? Is the long-term message that 12.8 percent of State basic support

be the only level of support provided and should the System raise its own money to meet its own needs beyond that level?

MR. KLAICH:

The members of the business community gave a better answer to your question in their testimony than I can. That is, they respect the partnership the State of Nevada has with higher education and they are proud to participate in that with their corporate and private funds. I have no doubt in my mind that, living in a national market, if there were to be a dramatic decrease in the level of State support for higher education, that fact would be used against us in recruiting and retention. It would send a message and the message would not be good. The message is not positive for Nevadans, for Nevada families sitting around their tables saying, "Where should I send our son or daughter for education? Should we send them to Utah or Arizona, or should they stay here?"

Obviously, we would prefer to maintain that partnership at a reasonable and high level. It is important to consider my previous suggestions to implement an interim study regarding NSHE funding. That would be an appropriate time to consider the policy discussion. National metrics could be considered concerning fairness for students and their families; the State, how do we get there; how do we recognize the missions our institutions and fund them properly. If we all had that time and held reasonable discussions resulting in reasonable decisions, we could make determinations that Nevada families would support.

SENATOR KIECKHEFER:

I fully support the idea of an interim study reviewing funding methods for NSHE. Having a funding formula based on the number of bodies in an institution emphasizes enrollment, not excellence.

Have you seen the Work Session Document provided to this body by the LCB Staff?

MR. KLAICH:

I received a copy when I arrived today. Our staff has worked with LCB Staff to compile many of the figures quoted.

SENATOR KIECKHEFER:

Scenario No. 2 discusses the approximately \$12.4 million saved by the consolidation and closure of campuses. Table 3 on page 7 of the Work Session Document lists the various FTE staff positions that would be eliminated under Scenario No. 1 and under Scenario No. 2. Does the approximate savings of \$12.4 million include elimination of approximately 2,500 FTE positions between the two scenarios?

MR. KLAICH:

I had not seen these charts until today, but I think redirecting of the funds would cause the loss of some positions, particularly in the administrative realm and it would save others. There is not a one-to-one relationship.

SENATOR KIECKHEFER:

Does the four-point plan you presented anticipate maintaining the 9-cent property tax redirect in the Governor's proposal?

MR. KLAICH:

The four-point-plan is built on the maintenance of those funds. There is a significant policy decision as discussed in the Joint Subcommittee about whether those funds should be redirected to the General Fund and then allocated from the General Fund to NSHE or directly earmarked to NSHE. It does anticipate that those funds be maintained within the budget in one form or another.

SENATOR HORSFORD:

Of the reductions in either Scenario No. 1 or Scenario No. 2, which ones constitute administrative reductions and which ones reduce instructional funding?

MR. KLAICH:

We may have that information in our templates or can access it and provide it to your Staff.

SENATOR HORSFORD:

If possible, please provide the information during this Committee meeting to assist in today's discussions.

MR. KLAICH:

We can provide that information today.

SENATOR SETTELMAYER:

What amount of increase in tuition costs for an average resident undergraduate student is represented by the percentage of increase stated today?

MR. KLAICH:

Are you referring to the 13 percent increase in each year of the biennium?

SENATOR SETTELMAYER:

What is the cost increase annually for each student?

MR. KLAICH:

The current undergraduate fees at the two universities are \$156.75 per credit hour and they will increase by the end of the biennium to \$200, or an increase of \$50 per credit hour times 30 credits for a SFTE applicant.

SENATOR SETTELMAYER:

Looking at the WICHE figures, Nevada's fees are approximately 20 percent less than the average of other states. That is probably why an increase in fees is being suggested. I have also heard and seen reports online that the engineering school is expected to increase by 50 percent. Is the same true of nursing, physical therapy and architecture fields as well?

The physical therapy courses had 400 applicants for 30 available seats. With the increased interest in those fields, has there been a large increase in enrollment loss?

MR. KLAICH:

Those fees were just adopted in the fall of 2010 effective for the fall semester of 2011. Therefore, a decline has not yet been seen. The purpose of the differential fees is for high-cost programs or high-demand programs. The NSHE hopes there will not be a decrease in enrollment because we have been selective and cautious about those increases.

SENATOR SETTELMAYER:

Each university has core programs they want to further so I understand raising tuition in those programs.

SENATOR DENIS:

During the presentation, you talked about the potential, under the current scenario, of losing up to 8,000 SFTE enrollments. Some of them may go out-of-state, but others would not seek higher education. How does that change under the four-point plan?

MR. KLAICH:

My rough calculations indicate that under the four-point plan, enrollment losses could be reduced by approximately two-thirds. I would expect there to be a proportionate mitigation of program closures and enrollment losses. That is why I indicated that fee income could be increased between \$40 million and \$50 million.

SENATOR DENIS:

I am concerned that students are already being impacted with all the proposed budget reductions and having to apply early for classes. Will we have to wait a year before there is any possibility of getting some of those students back to Nevada?

MR. KLAICH:

I had that exact conversation with Dr. Glick within the last month. If you consider the enrollment projections for UNR, you will see no impact on enrollment in year one of the biennium. That was due to Dr. Glick's belief that for all practical purposes, the enrollment year had already begun. Recruiting and marketing were completed. Students were filing their papers and those students must be served in the first year of the biennium. The major impact would come in year two of the biennium.

SENATOR DENIS:

Even under NSHE's proposed four-point plan would the registration fees remain what has already been proposed?

MR. KLAICH:

No, under the four-point plan I suggested, there would be an increase of about 13 percent in each year of the upcoming biennium which would include the increase in fees as indicated by Senator Settlemeyer and the increase in revenue to the System of \$40 million to \$50 million.

SENATOR DENIS:

You were talking about a \$215 per credit hour charge for undergraduates in FY 2012-2013. Would that stay the same?

MR. KLAICH:

That fee is not booked. The current fee, approved by the Board of Regents for university undergraduates at UNR and UNLV, is \$156.75 per credit hour. That is what a student would see in our course catalogs. My proposal is to increase that fee by approximately \$50 per credit hour over the biennium.

SENATOR DENIS:

How does the four-point plan change the number of faculty that would be eliminated under the scenario that positions would be eliminated and processes streamlined.? How many good faculty members have we already lost? Are there positions available in other areas of the country for the faculty members who may be eliminated? Will Nevada continue to lose quality faculty to other areas with better offers?

MR. KLAICH:

Erik Herzig, Chair of the Department of Mathematics and Statistics at UNR, gave testimony before the Joint Subcommittee describing faculty losses. One member of his faculty left for a position at the University of Texas in Austin. He stated it was a natural progression and an upgrade for that staff member. He indicated they had just lost another member of their faculty to North Texas State University and he did not feel that was as great an opportunity. His opinion was that UNR and UNLV should be competitive with those institutions and our best faculty should not be cherry-picked by those entities.

Mr. Ted McAleer spoke at the Nevada 2.0 Conference and provided a map showing from where some of the best entrepreneurial faculty was cherry-picked. Reno, Nevada was shown as losing one of its most entrepreneurial faculty in engineering and the institution also lost his grant funding.

Yes, we are losing some of our star faculty. Faculty are always most mobile at the highest levels. Unfortunately, those are the individuals we will lose. I cannot state Nevada is acting in a vacuum. Every state, except a few states with energy industries, has budget problems. They are cutting higher education. Under the scenario I outlined, I would hope we could mitigate the loss by at least two-thirds.

SENATOR DENIS:

Thank you.

SENATOR HORSFORD:

Chancellor, there is much information to be discussed in this meeting and we need to keep all questions and comments as succinct as possible.

SENATOR ROBERSON:

A part of your four-point plan requested additional funding. What amount of additional funding is being requested by NSHE?

MR. KLAICH:

I do not have a specific funding request today. However, as the budget process gets nearer completion we can discuss specifics and come to agreement on additional funding.

SENATOR ROBERSON:

Did you testify there would be an increase in student fees of \$40 million to \$50 million over the next biennium?

MR. KLAICH:

Yes, I testified, those increases would be implemented by one-third increments.

SENATOR ROBERSON:

What amount of operational fund reductions is proposed under current funding availability?

MR. KLAICH:

Those reductions are approximately \$50 million in each year of the next biennium.

SENATOR ROBERSON:

Would that be approximately \$100 million for the biennium?

MR. KLAICH:

That is correct.

SENATOR ROBERSON:

What portion of the operational reductions consists of the 5 percent salary reductions?

MR. KLAICH:

None of the salary reductions are included. The plan I outlined assumed the 5 percent salary reduction.

SENATOR ROBERSON:

Would the operational reductions be in addition to the 5 percent salary reductions?

MR. KLAICH:

That is correct.

SENATOR ROBERSON:

What is the aggregate amount of the 5 percent salary reductions?

MR. KLAICH:

Every percent employee salaries are reduced in NSHE reduces budgetary needs by \$5 million. Because salary reductions for furlough costs were already removed from the budget in the prior biennium, most of that savings has already been realized. Therefore, the reduction from 4.6 percent of salaries under furloughs to the 5 percent reduction in the *Executive Budget* does not make a large difference.

SENATOR ROBERSON:

In other words, there is essentially no salary reduction in the 2011-2013 biennium?

MR. KLAICH:

There is no pay cut to a number of employees. There are salary reductions to tenured faculty because their pay could not be reduced in the last biennium.

SENATOR ROBERSON:

If a 10 percent salary reduction were proposed, would that add approximately \$25 million to the NSHE budgets?

MR. KLAICH:

That is correct.

SENATOR ROBERSON:

For the sake of argument, to the extent that higher education asks for another \$100 million, where do we find that revenue? Alternatively, whose budget do we cut? Do we cut K-12 Education?

MR. KLAICH:

Absolutely not. They are our partners in education in Nevada and there is nothing we can do to enhance the quality of higher education more than to enhance the graduates from our public education system.

SENATOR ROBERSON:

I concur with your conclusion. Where else does NSHE suggest we cut budgets to provide the additional \$100 million requested?

MR. KLAICH:

My suggestion is that the Legislature bring additional revenue into the budget. I made the suggestion to allow the taxation sunsets to be extended.

SENATOR ROBERSON:

Mr. Satre called for a broad-based business tax. I am aware the Chancellor's Business Roundtable considers these issues. Are there any representatives of small businesses on the Roundtable? Representatives from big business were here today and recommended a broad-based business tax which impacts small businesses. I am concerned that it is easy to say, "Let's get rid of the sunsets on these taxes." In my mind, that is a tax increase that falls on small businesses.

The private sector is broke. That is a fact. We need to protect higher education for the future, but we also need small businesses in the State. They are the backbone of our economy.

MR. KLAICH:

I agree completely.

SENATOR ROBERSON:

When we talk about who we are going to tax today, we are talking about and burdening small businesses.

MR. KLAICH:

I do not believe we are.

SENATOR HORSFORD:

We are not going to have this debate at this time. I will defer to the Chair of the Senate Committee on Revenue for this discussion. We can have the discussion on who is impacted with a broad-based tax, but to imply that proposals have been made that would burden small business is inaccurate. In 2009, a tax break was passed for the purpose of protecting small businesses. There should probably be a Committee of the Whole scheduled for revenue discussions so that those facts can be made clear. No one has proposed any new revenue streams or broad-based solutions that impact small business.

SENATOR LEE:

As a small businessman, I can tell you we do think about those things. As the father of seven children, I think about the greater need of the family, too.

When looking at the worst case scenario, I would like to see a commitment from NSHE that, if the community college satellite campuses are closed, all of those students will have the ability to transfer to other educational institutions in the State to continue their degree goals. If students miss a year or two, they have to go back and see how classes they have already taken have been changed. We owe it to these students to ensure they can achieve their educational goals. I suggest we allow students already in the System to complete their degrees before we allow new

high school graduates or other new students to enter the System. To sweep the rug out from under current students and destroy their coursework will decimate years of educational strides which would help individuals to change their lifestyles.

MR. KLAICH:

I cannot make that commitment at this time. I do not know how, under the worst-case scenario, we can take \$162 million away from the budget, lose the potential for approximately 8,300 SFTE and say we will absolutely serve the currently enrolled students. We have multiple year curricula and to say we would see all current students through to graduation means there would ultimately be no new students in the freshman or sophomore classes. I cannot plan for institutions on that basis. We have committed to the Legislature to do everything we can to get the current students through their course majors or through a major closely aligned with the major in which they started.

SENATOR LEE:

Current students may ask, "Why should we register and pay fees for the next semester, when our ultimate goal may not be available at the end of our studies?" Is that what we are saying to the students in the satellite campuses?

MR. KLAICH:

That was a different question. My concern for students who are attending satellite campuses that may be closed is the distance they will need to travel to continue their studies. I was referring only to the number of students we are prepared to serve. Respectfully, we are talking about a joint commitment to those students already enrolled.

SENATOR LEE:

We talk in the abstract about fees, but these are real people, some of whom will go without a meal to succeed or provide for themselves.

For the record, this Senator believes the people in the System now have first right at all educational opportunities if the State can afford them. We will have to tell people who are upgrading their skills that they will have to wait until we get these people through. High school graduates, we would love to have you come here, but we made a commitment to these people first. Individuals attending community colleges should not have their dreams disregarded.

SENATOR MCGINNESS:

Have any surveys been done on enrollment losses which may result from increases in tuition? Have students continued their education in the past when fees have been increased?

MR. KLAICH:

The System does not believe there has been a significant number of students lost in the past when fees were increased. It could be a factor of some students not continuing but an equal, or similar, number of students enrolling. A survey has not been completed. Past fee increases have not been of the magnitude now being contemplated.

SENATOR HORSFORD:

I have not done surveys, but I have heard from my constituents and some of them cannot afford to pay beyond a reasonable fee increase. Ms. Aguirre testified today that students are willing to accept some fee increases if all of us are willing to share some of the responsibility. Should the entire budget reduction be placed on students? That is not fair. Increasing fees that bring Nevada to the median average of other western states is appropriate. I would rather make the increases over multiple years. However, this budget proposes all of the increases in the 2011-2013 biennium.

Some individuals may not consider a cost of \$1,500 per class excessive. Tell that to students who are trying to obtain an education on their own or families who are trying to contribute to the education of their children.

SENATOR HARDY:

What if we consider Scenario No. 2, which has the least impact, and look at the market forces involved with fees and tuition? I have discussed the increases with individuals in the graduate nursing program who say their tuition could be doubled. Some individuals would no longer be able to afford to enroll in the program.

In the physical therapy field, there is a program available at Nevada State College or other institutions versus the private industry which charges as much as four times more in tuition. If there are 30 student slots available and 400 qualified applicants, the market forces would seem to allow the System to charge more for particular programs. Tuition increases should not be made equally across the board.

We must consider other WICHE states who may see budget increases making space for Nevada students to attend.

The bridge or transition funding discusses the need to notify tenured staff of termination of employment. Page 7 of the Work Session Document states, "As identified, bridge funding does not represent General Funds and appears to be non-State, one-time funds or reallocated student fees collected for capital and general improvement purposes. One of the challenges before the Senate is to identify which programs or budgets are funded by the General Fund appropriations and which are funded by other funding sources. What is the nexus for the transition funding requirement? We struggle with the different funding sources included in the System budgets. I am suggesting a mix of market-based system supply and demand with a carve-out for the 15 percent or whatever amount is approved for a set-aside. Has NSHE had these discussions?

MR. KLAICH:

You indicated that Scenario No. 2 appears to be less onerous than Scenario No. 1. That depends on where you are sitting. If you live in a community where colleges are merged or closed, it may be much more onerous to you.

With respect to the question on fees, the Board of Regents just adopted a policy with respect to differential fees. Moving slowly into differential fees is a wise policy that should be pursued in the future.

We operate under a Letter of Intent issued by the Legislature that splits student fee revenue approximately two-thirds to the State-supported operating budget and one-third retained by the campus collecting the fees for capital improvements and various other activities on campus.

SENATOR HARDY:

Recognizing there are private institutions that have similar programs which are filled to student capacity and must therefore turn additional individuals away, I see NSHE has the same scenario. It forms a virtual cap on enrollment because there is an insufficient number of slots available for differential fees to be directed to market force instructional areas. It appears to be the current policy at NSHE.

MR. KLAICH:

That is correct.

SENATOR HARDY:

Thank you.

SENATOR HORSFORD:

Seeing no further questions for the Chancellor, we will now seek testimony from the Governor's Chief of Staff and the Budget Director.

HEIDI GANSERT (Chief of Staff, Office of the Governor):

As mentioned yesterday, these economic times are tough. When construction of the current *Executive Budget* began, the State was already down about \$1.2 billion because of the loss of ARRA funding, caseload growth and reduced revenue at local levels. We recognize all of these budget reductions are difficult. We also know that all members of the Senate and everyone in the State supports higher education. The Governor, my husband and I are all graduates of the University of Nevada and therefore have great admiration for and appreciation of NSHE. There is a strong tie between economic development and the University System.

One reason the 9-cent property tax diversion was directed to higher education is because we believe the economy will recover and that the System has an influence on how the State recovers. We believe by applying the property tax diversion to higher education, as it grows once again, NSHE will see a positive benefit of that growth. The Governor's Office received some good news on Monday we wish to share. Unemployment is down, although it is still high. For the first time in more than 37 months, employment has increased.

As far back as when the Governor was a candidate, he had discussions with the Chancellor and members of the Board of Regents. Their request at that time was for autonomy to change tuition fees and to keep tuition funds at the institutions. They also discussed their willingness to provide accountability. They stated they were working on improving graduation and enrollment rates. Great strides are being made. A stabilization account was requested to retain the portion of funding typically reverted to the State at the end of each fiscal year.

Senate Bill 434 was introduced which accomplishes all those requests. With the budget reductions NSHE would be facing, we recognized that it was important to give them autonomy.

During the last two-year period, there was an expectation that ARRA funding or other one-shot funds would be replaced in the 2011-2013 budget. However, some of the colleges within NSHE recognized they might need to help themselves. I am on the advisory board for the College of Engineering at UNR. Therefore, I know they considered their upper unit classes and added a surcharge of approximately 50 percent to their tuition. The School of Architecture and the School of Nursing have added a surcharge to their tuition. The School of Physical Therapy in southern Nevada was able to double its tuition and still had long waiting lists for admittance. There is a sizeable demand for enrollment at these institutions.

Throughout the United States trends are for students paying a larger portion of their tuition. At NSHE, the taxpayers' portion of the cost of education versus the students' portion is approximately 73 percent from taxes and 23 percent paid by students. The taxpayer numbers are trending down and student support is trending up. An outstanding group of individuals comprise the Board of Regents and they will be making the final budget decisions regarding how to appropriate cuts and retain the core mission of the overall system.

The Governor's Office considers every institution to be important. We are concerned about the potential of rural campus closures. We trust the Board of Regents will have the judgment to ensure the core mission of NSHE is retained and that there is access to education throughout the State.

Fifteen percent of tuition increases will be set aside for financial aid. That is critical. Institutions must be offered at affordable levels and we must help those who may not have the means to afford tuition increases.

SENATOR HORSFORD:

I understand that allowing the 9-cent property tax revenue to be allocated to NSHE will help, in part, to mitigate the situation. I am unclear as to why only Clark and Washoe Counties were singled out for this diversion. Why are other counties that also benefit from the colleges and universities throughout the System not being asked to share in funding NSHE programs?

MS. GANSERT:

The property tax diversions are to be directed to UNR and UNLV because there is a strong nexus between economic development and education, and those institutions are the hubs of the System. We worked with both parties earlier on a bill to change the economic development model. A knowledge fund is under consideration. The intent is to tie NSHE into economic development at the two major institutions in the State.

SENATOR HORSFORD:

Why are the mining-rich counties such as Eureka and Lander not being asked to contribute as well? Those counties have healthy reserve accounts even in these difficult financial times. The budget impact may cause rural campuses to be closed. Why not allow the rural counties to help support the services of academic programs in their communities?

MS. GANSERT:

The Governor's Office considered the entire budget. When looking at the whole picture, other services are being pushed down to the local governments. Higher education, K-12 and Health and Human Services are all a part of those additional costs. We did not want to place undue strain on local governments although we felt certain health and human services programs are best provided at the local level.

The 9-cent property tax diversion is a continuation of a reallocation from the 2009 75th Legislative Session. That reallocation was only taken in Washoe and Clark Counties.

SENATOR LESLIE:

Are these diversions taken permanently through the *Executive Budget*?

ANDREW CLINGER (Director, Department of Administration):

That is correct. The bill that has been introduced contains a sunset of the provisions but that was not the budgetary intention.

SENATOR LESLIE:

I thought earlier testimony indicated the intent of the diversion was to be in place only until the economy recovers.

MS. GANSERT:

This piece of the budget is a permanent reallocation. The General Fund has been reduced and reallocation of these funds is tied to economic development.

SENATOR LESLIE:

If that is the case, was there any discussion with the counties regarding other ways to reduce their funding? These are capital funds. It seems if the funds will be permanently diverted, this may not be the best choice of a funding source.

SENATOR HORSFORD:

There are two parts to the 9-cent property tax. One part is capital funds and the other is operational funds. I know the counties want to be heard on this as well. Please expound on Senator Leslie's question that this is not just a continuation for the 2011-2013 biennium.

MR. CLINGER:

All I can do is restate what has already been discussed. The 9 cents is a continuation of the current procedure. We feel there is a greater impact from the universities in their respective counties than in other counties. There is an impact in other counties, but not to the same extent as in Washoe and Clark Counties.

SENATOR HORSFORD:

Have those impacts been evaluated? If, for instance, GBC which provides training in mining and other related mining activities is closed, that will have a tremendous economic impact on that region. I do not understand the logic in suggesting there is no economic benefit to those rural communities either by underfunding or funding their programs. The President of Great Basin College has said that the programs they are offering are directly aligned with the industries in that region. If those programs are closed, it would not only impact those students and staff, it would affect the industries that rely on that institution.

MS. GANSERT:

We have never contemplated the closure of any campuses. Those decisions will be made by the Board of Regents. The Governor's Office supports keeping all institutions open because of their criticality. There are two questions: the funding method and whether to keep all campuses open.

SENATOR HORSFORD:

You have answered that question, but you have not answered the question as to why the counties that benefit from those programs are not being asked to contribute to the costs in the same manner as what is asked of Clark and Washoe Counties. Why is that?

MS. GANSERT:

The intent was a continuation of the 2009 75th Legislature's actions with the diversion of the 9-cent property tax in Washoe and Clark Counties. The reallocation does not go to the General Fund. It goes directly to UNR and UNLV.

SENATOR HORSFORD:

Is your position that the diversion should stop at the end of the 2011-2013 biennium, because the continuation would be for two years? That was the intent of the 2009 75th Legislature's actions. Do you intend to make this a permanent diversion, or do you intend to end the diversion at the end of the upcoming biennium?

MS. GANSERT:

No, our recommendation is that the reallocation established by the 2009 75th Legislature become permanent. We believe there is a tie to economic growth. We want the System to receive the upside of that economic growth. The property tax revenue will increase over time and we felt that was a method to help the System in the long run, although it changes the basic funding structure.

SENATOR HORSFORD:

For clarity, if we continue the policy established two years ago, the reallocation would only be extended for two years. You are now proposing the diversion become permanent, a portion of which is from the operating accounts and another portion is from the county capital funding which is used to build police and other public safety facilities.

MS. GANSERT:

That is correct.

SENATOR MCGINNESS:

I hope this discussion is not moving toward a position of pitting urban Nevada against rural Nevada. All Nevadans are making do with less.

SENATOR HORSFORD:

I could not agree with the Minority Leader more. The diversion should be fair and equitable. I am trying to understand why only 2 of the 17 counties are being asked to carry the burden of the entire NSHE, when we know other counties have the ability and have healthy reserve accounts. I am also concerned because when I met with the county manager of Washoe County, I was told of the reductions that have occurred already and the impact of the 9-cent property tax diversion would have on that county and its residents. I am equally concerned about what that means to the communities in southern Nevada. I am not suggesting local governments should not be a part of the solution. However, if they are a part, it should be fair and equitable and certain counties should not be singled out while others are excluded. I cannot get an answer from the Administration as to why certain counties, with the means, were not asked to help fund higher education.

SENATOR DENIS:

Was your testimony that the Administration was trying to follow the actions of the 2009 75th Legislature?

MS. GANSERT:

The 9-cent tax diversion began in the 2009 75th Legislature. It was only a reallocation from Clark and Washoe Counties.

SENATOR DENIS:

Earlier discussions centered on the sunseting of other taxes. Why was that not also the recommendation for these tax diversions? Why were the other new taxes not continued as well?

MS. GANSERT:

The 9-cent tax diverted in 2009 was not a new tax. It was a part of something that would have sunsetted. Other 2009 taxation contained new revenue streams.

SENATOR HORSFORD:

If the Administration's intent was to adopt the 2009 plan, why was the continuation of other revenue streams not included? I think we already know the answer to that question.

At this time we will ask the county representatives to provide their perspective beyond what we have already heard.

LISA GIANOLI (Washoe County):

I want to clarify how we got to where we are today. There was a crisis in transportation during the 2007 74th Legislative Session. At that point in time, the diversion of 3 cents of the capital facilities tax was enacted. The original intent was only to divert those funds from Clark County. However, late in the session, Washoe County was included. Those diversions were done in 20 percent increments over a five-year period. Today, Washoe County would be sending 2.8 percent of our 5-cent capital facilities funds to transportation. Late in the Twenty-sixth Special Session, the full 5 cents was diverted plus 4 cents of operating funds that were supposed to sunset at the close of FY 2010-2011. Washoe County recently submitted a tentative budget diverting 2.8 cents of the capital facilities tax with 20 percent remaining for one year of the biennium to the Highway Fund for transportation.

Washoe County is therefore expecting diversions of approximately \$11 million. That means dramatic cuts to Washoe County and to services. I understand the economic exigencies faced by the State, but I am sure these diversions are also having a significant impact on Clark County as well.

CONSTANCE BROOKS (Clark County):

Clark County also understands the dire straits the State is facing with regard not only to higher education, but to all vital services. However, in Clark County, the 9-cent diversion is equal to approximately \$117 million. The 9-cent diversion from 2009 was devastating. Clark County has experienced several hundred layoffs, we have been taxed with demands for services, and increasing demands in the area of social services and child welfare.

The 4 cent portion of the 9-cent tax is our operating rate dedicated to those services for which demand is increasing. In this economic crisis, the need for social services, including medical assistance, rental assistance and other services for individuals who are facing crisis situations is growing. We would like to continue to provide services and meet the needs of our communities, but it will be very difficult to do so if the 9-cent property tax diversion is continued.

SENATOR HARDY:

Are the funding losses of \$11 million and \$117 million, respectively, on an annual basis rather than a biennial basis?

MS. GIANOLI:

That is correct. These are annual losses.

SENATOR HORSFORD:

Is that correct for Clark County's losses as well?

MS. BROOKS:

It is the same for Clark County. The impact from the 5-cent diversion is an annual loss of \$65 million and the impact from the 4-cent diversion is \$54 million annually.

SENATOR LESLIE:

My question is more of a structural issue. The 5-cent tax is directed to capital funding. Therefore, taxpayers expect it to be spent for those purposes. Now we are permanently diverting the funds to economic development. Does that make sense? Are there other options?

MS. GIANOLI:

Washoe County traditionally used the 5-cent tax revenue to service debt for infrastructure. Those funds are distributed to the county. Of the roughly 70 percent retained by the county, 20 percent is redirected to the City of Reno and 10 percent is directed to the City of Sparks. Because the changes in 2007 were made in 20 percent increments, there was some time to react to the reductions. County General Fund dollars have been used to offset those losses. Now, with

the reduction of 4-percent, operating funds which have been used to service debt, major adjustments have been made. The loss of operating funds and the push downs in social services will not leave much room to make further adjustments.

MS. BROOKS:

It is also important to note that the capital funds we would use for infrastructure projects provides opportunities for job creation.

SENATOR HORSFORD:

We will now invite Regent Ron Knecht to speak and then open the meeting to public testimony.

RON KNECHT (Member, Board of Regents):

I am an elected member of the Board of Regents from this district. I am speaking as an individual member of the Board and a private citizen. I am not speaking on behalf of the Board.

I will provide long-term and short-term perspectives of the NSHE budgets. I will also address a couple of policy issues.

I do not envy the Legislature the tasks it faces. Over the last ten years, State spending on higher education and on all matters has grown faster than our economy.

Personal income of Nevadans has grown 65 percent; however, 28 percent of that increase is attributable to inflation. At the same time, all State General Fund spending grew by 116 percent. Public Safety spending grew by 79 percent, higher education by 86 percent, human services, including Medicaid, grew by 118 percent and State spending on K-12 education grew by 128 percent. Over the last three years, the numbers are different but the pattern is the same. State spending grew by 6 percent while Nevadans' incomes declined by 6 percent. These figures are different than much of the current commentary. We tend to focus too much on budgets and not on actual year-to-year spending. A focus on budget numbers is misleading, somewhat meaningless and greatly overstated.

Using higher education figures, you have probably heard about \$45 million to \$50 million in budget reductions over the past two to three years at the two universities. That is a phantom budget number that was never spent to today's spending levels. The actual reductions to the two universities have been between \$3 million to \$25 million annually. The total all-fund sources are either positive or negative depending on whether the specialty schools such as the medical school, law school or the dental school and other factors are included. If one tried to compare this budget with public spending, the budget data is not comparable. No family says they make \$80,000 one year, but due to head count, inflation expanded scope we really make \$90,000. If only \$83,000 is earned, one could say that family experiences a \$7,000 budget reduction. Families do not compute their budget or progress that way.

I will abbreviate my comments and submit my written testimony for the record.

Over the last three or four years during the economic depression, Nevada families have suffered far worse than the public sector.

The Governor has suggested to NSHE that we could take greater responsibility for our own funding. In the last ten years, our total General Fund support has grown 8 percent relative to the economy. Our tuition and fee revenue has grown at the rate of the economy, our self-supported funding has grown 45 percent faster than the economy and our grants and contracts have grown 15 percent faster than the economy. That equals an overall increase of 18 percent which is a good track record of self-help. It is reasonable to ask for continuation along that track going forward.

There are four things that would help us to accomplish that goal. The first would be a nine-line budget with each line representing one institution and one line for the System instead of the 27 line budget currently in place. It would give us the flexibility desired by the Governor. Secondly, cancellation of the Letter of Intent would allow the System to pull back increases in tuition and fees into education. Third, would be the authority to carry forward the cost savings realized from one budget year to another. Fourth is application of additional State revenues that may be realized in the next biennium to mitigate NSHE's second year budget reductions.

The vote taken by the Board of Regents did not indicate whether we support a tax increase. That is not in our purview. The motion we supported requests more revenue for higher education than proposed by the Governor.

Regarding institution closures, consolidations, mergers and so forth; the Chancellor detailed the effects on access at our community institutions and on the System as a whole within the parameters of the Governor's proposed budget reductions. The record of our April 8, 2011, hearing indicates each of those effects would be exacerbated if, instead of using the tier 1 plans from the institutions, we moved to closures. Essentially, the \$12.5 million alleged savings from the first year of the biennium is a gross figure that ignores the transition costs. The transition costs would be substantial and would occur in the 2011-2013 biennium. They would reduce the \$12.5 million to approximately zero. Further in the future, there may be some savings. At the same time, it would take funding from the institutions with the highest faculty to class loads, the lowest faculty pay rates and the largest classes. In short, institutions that pay the least would be moved to institutions with the lowest faculty class loads, the smallest class sizes, the highest faculty pay rate and therefore, the highest student costs.

The total student count in institutions would be reduced, faculty counts would be reduced and there would be a decrease in class and degree offerings.

I urge the Legislature not to consider any of the unnecessary tier 2 reductions. The necessary reductions can be made through tier 1 funding.

SENATOR HORSFORD:

All options are still under consideration and we are evaluating all means of budget reductions before any decisions are made. That is prudent for both the Legislature and the Board of Regents. Unfortunately, all the decisions we make have implications for this biennium as well as future Legislatures.

SENATOR MCGINNESS:

Mr. Knecht, did you indicate that if the regents are given the ability to do so, NSHE could be self-supporting?

MR. KNECHT:

Self-supporting might be a long-term goal. It is not something I am recommending or something that can be transitioned to immediately. It is reasonable to continue our track record of self-support going forward. I am not advocating no longer funding remaining public institutions. It is reasonable to look to the Board of Regents to seek self-support in the area of fees and tuitions and the grants and contract funding.

SENATOR HORSFORD:

I think that is appropriate. However, the testimony we just heard from the business community is that their investments in NSHE are, in part, contingent on the level of public sector support and the existing partnership. If the partnership is reduced, that may affect the private sector investment as well. That is part of the policy decision before this body.

SENATOR ROBERSON:

I am reviewing information that has been provided. Are you are telling this body that during the worst recession seen in this State, between FY 2007-2008 and FY 2009-2010, revenue from all sources for NSHE increased by 4 percent?

MR. KNECHT:

When all four primary sources are considered that statement is true. However, there is a serious fungibility problem with grants and contracts. The real reason for the increased spending has been our outstanding record of self-support.

SENATOR ROBERSON:

In the same time period, State spending from the General Fund only decreased by one percent. We do not hear this information from many sources. It also appears that since FY 1999-2000, State support for NSHE has increased 86 percent and support from all sources

has increased by 107 percent. Based on this information, I do not believe the problem is as severe as is being portrayed.

MR. KNECHT:

The 86 percent figure includes both General Fund and tuition and fees which are considered as other funding from the State. These are the worst times we have faced, but we will get through these difficulties.

SENATOR HORSFORD:

Does the 86 percent figure include the \$184 million in federal ARRA funds that was one-time funding in the last two years? Yes or no?

MR. KNECHT:

Not exactly.

SENATOR HORSFORD:

Do the figures Senator Roberson cited include the ARRA funding as part of the non-general fund support that was provided for in the last two years? Yes or no, it is a simple question.

MR. KNECHT:

Those figures do not exactly reflect it, if I may.

SENATOR HORSFORD:

If you do not know the answer, I can ask our Fiscal Staff.

MR. KNECHT:

I can answer it.

SENATOR HORSFORD:

This is a yes or no answer.

MR. KNECHT:

Yes, but, may I explain?

SENATOR HORSFORD:

No. That was my question.

SENATOR ROBERSON:

Why can Mr. Knecht not explain his answer?

SENATOR HORSFORD:

I asked for a yes or no answer to the question.

SENATOR ROBERSON:

Can I ask him a follow-up question?

SENATOR HORSFORD:

Senator Settlemeyer has the Floor.

SENATOR SETTELMAYER:

I have talked to my community college constituents and they indicated the Governor's budget was extremely difficult but they could persevere. I am aware initial meetings have been held and that closures were no longer under consideration. What information has come forward to change the discussions to once again include closures? Community colleges are such an important aspect of these communities.

MR. KNECHT:

It is difficult for me to say that any information has changed. The Board received more information on the tier 1 institution reductions of 31 percent or 32 percent of General Funds. You would need to poll the regents who changed their votes, when the information was received before the March 11, 2011, meeting having those options under discussion. At that time, the

regents concluded by a vote of 8 to 5 that the information on the tier 1 reductions indicated we did not need to consider tier 2 reductions. Subsequently, the Majority Leader requested we rescind that decision and a vote was taken on April 8, 2011, to rescind the earlier vote. Not much in the way of substantive changes occurred.

SENATOR SETTELMAYER:

I would like an explanation of the ARRA funding.

MR. KNECHT:

The simple explanation is that the ARRA funding for NSHE was all placed into FY 2008-2009. Therefore, in FY 2009-2010, our General Fund spending included no ARRA funding. The Legislature, for its purposes, moved other revenue into FY 2009-2010. When the FY 2009-2010 figures are divided by the FY 1999-2000 General Funds, ARRA funds are not included in either of those fiscal years. The ARRA funds were received and they were spent.

SENATOR HORSFORD:

It was not a part of the basic support provided by the State and is not now included in the Governor's budget. As referenced earlier by Director Clinger and our Fiscal Staff, the funds being replaced with property taxes will replace basic support funding separate and apart from the additional \$184 million reduction due to loss of ARRA funds. Those funds are shown as non-State support in the budgets.

SENATOR MCGINNESS:

I appreciate this open discussion. However, I am concerned there is a chilling effect if some of the members are not allowed to ask questions. I recognize Regent Knecht is incapable of giving a short answer, but the members should be allowed to ask questions.

SENATOR HORSFORD:

I agree. That was my question to which I requested a yes or no answer.

SENATOR ROBERSON:

What I am hearing is that if the ARRA funds had never existed, we would still see a 107 percent increase in all sources of NSHE funding from FY 1999-2000 to FY 2009-2010.

MR. KNECHT:

I cannot say that. If the ARRA funds had never existed, we would not have been able to move the allocation of FY 2009-2010 ARRA funds for higher education into the FY 2008-2009 spending and move the FY 2008-2009 General Funds into FY 2009-2010. The ARRA funds are reflected as a technical matter.

SENATOR HORSFORD:

Please provide a copy of those figures for our Staff.

MR. KNECHT:

I will provide that information for this body.

SENATOR HORSFORD:

What was the population growth between 2000 and 2010?

MR. KNECHT:

The population growth was approximately 40 percent. I have normalized the figures for population and head count.

SENATOR HARDY:

What is the per-student count in that calculation?

MR. KNECHT:

I have the gross figures and the per capita figures for both spending of the various categories and the economy in my workbook. I have normalized the figures for student counts and for population. The figures I quoted today are based on the per capita figures.

SENATOR SCHNEIDER:

The numbers appear to be adjusted to fit the story. Are universities and colleges based on the elite faculty who can be acquired?

MR. KNECHT:

They are based on the elite faculty and on the work-a-day faculty.

SENATOR SCHNEIDER:

When numbers are compiled for an institution, the system is trying to grow and improve so that perhaps it could be considered a Harvard of the West, the numbers provided do not reflect where the State and Legislature wish to go. Over the past two years, there have been faculty members who have fled this State because of the lack of commitment on the part of the Legislature and the Board of Regents. I reported those facts to this body two years ago. Why was the Board of Regents not reporting that same information? Why did the Board of Regents not testify that we are losing our great faculty? They are putting themselves on the market. They are leaving and in two weeks they get jobs as committee chairmen at elite schools. We are dismantling what we are doing here.

It is incumbent upon the Board of Regents to report to the Legislature. I am tired of operating the university and college system in this manner.

You, personally, are contributing to the tearing down the institutions by not appearing before this body and demanding that we do better. It is easy to make cuts and easy to come with stories about spending a little more money. Do we not want to get a better system? Do you want a better system or do you want to continue to make cuts and chase away the good faculty?

I know students who have gone to Stanford or Pepperdine University because of their faculty members. Those institutions score fantastic faculty members and they pay good money for them.

Nevada tends to chase good faculty off. We build the system up, but then a recession hits and we wipe out the good faculty.

SENATOR HORSFORD:

Before we recess, I wish to make a few statements.

Every member of this body can ask questions. The question I asked of Mr. Knecht was my question. I was only looking for a simple answer.

Closures and consolidations must be considered. I do not understand why a campus would remain open if it no longer has programs to offer students. It costs money to run facilities. If there are no students and no teachers and no programs, why do we maintain a building? That is why this must be a part of the discussion. I, like many of you, hope the decades of investments that have been made to build up these institutions are not whittled away in one budget decision that will have long-term negative consequences. I also hope we do not keep buildings open for the sake of keeping them open.

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

SENATE IN SESSION

At 1:18 p.m.

President Pro Tempore Schneider presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 9.

Senator Wiener moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 150.

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

Motion carried.

Assembly Bill No. 181.

Senator Wiener moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 215.

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

Motion carried.

Assembly Bill No. 227.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 267.

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

Motion carried.

Assembly Bill No. 269.

Senator Wiener moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 292.

Senator Wiener moved that the bill be referred to the Committee on Judiciary.

Motion carried.

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

Senate in recess at 1:24 p.m.

SENATE IN SESSION

At 1:26 p.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 318.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 329.

Senator Wiener moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 393.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 398.

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

Motion carried.

Assembly Bill No. 403.

Senator Wiener moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 429.

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

Motion carried.

Assembly Bill No. 455.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 477.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 535.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 537.

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

Motion carried.

Assembly Bill No. 551.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that the action whereby Assembly Bill No. 329 was referred to the Committee on Government Affairs be rescinded.

Motion carried.

Senator Wiener moved that the bill be referred to the Committee on Natural Resources.

Remarks by Senator Wiener.

Motion carried.

Senator Wiener moved that Senate Bill No. 375 be taken from General File and re-referred to the Committee on Finance.

Motion carried.

Senator Wiener moved that Senate Bills Nos. 180, 262, 315, 331, 368 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Gustavson moved that Senate Bill No. 283 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Parks moved that Senate Bill No. 233 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 21.

Bill read second time.

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

Amendment No. 406.

"SUMMARY—Revises ~~the requirements for reopening a claim of compensation for a permanent partial disability;~~ **certain provisions concerning catastrophic injuries.** (BDR 53-479)"

"AN ACT relating to industrial insurance; revising ~~the requirements for reopening a claim of compensation for a permanent partial disability;~~ **certain provisions concerning catastrophic injuries; specifying additional injuries that constitute a catastrophic injury; revising the qualifications of a certified vocational rehabilitation counselor; revising provisions governing claims for catastrophic injuries; revising the requirements of a life care plan developed by an insurer for an injured employee; revising the qualifications of an adjuster who administers a claim for a catastrophic injury;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law requires an insurer to reopen a claim of compensation for a permanent partial disability if the claimant proves three conditions are met: (1) the claim was closed and the claimant was not evaluated as required; (2) at the time of closing, the claimant met the qualifications for an evaluation; and (3) the insurer violated NRS 616D.120 with regard to the claim. (NRS 616C.392) NRS 616D.120 lists prohibited acts for which the Administrator of the Division of Industrial Relations of the Department of Business and Industry may seek penalties from an insurer, such as failure to pay, inducing a claimant to settle, refusing to process a claim, or intentionally failing to follow a statute or regulation, but does not refer to evaluations for a permanent partial disability.~~

~~This bill removes the third condition concerning a violation of NRS 616D.120, so a claimant, in order to reopen a claim, would be required to show that at the time his or her case was closed he or she was qualified to receive an evaluation and no evaluation was scheduled.]~~ Section 1.1 of this bill expands the definition of "catastrophic injury" for the purposes of industrial insurance to include an injury sustained from an accident and resulting in: (1) a coma or vegetative state; (2) the loss or significant impairment of function of one or more vital internal organs or organ systems; (3) the mangling, crushing or amputation of a major portion of an extremity; (4) an injury which the insurer and the injured employee agree should be administered as a catastrophic injury; or (5) an injury determined by the insurer to be a catastrophic injury.

Section 1.2 of this bill revises the qualifications for certification as a certified vocational rehabilitation counselor. Section 1.7 of this bill revises the qualifications for an adjuster who administers a claim for a catastrophic injury.

Section 1.4 of this bill provides that an injured employee may submit a request to an insurer for a determination that an injury should be administered as a claim for a catastrophic injury. Section 1.4 further provides that an insurer must issue a written determination concerning such a request within 30 days after receipt of the request. Section 1.5 of this bill provides that an injury which is not originally determined to be a catastrophic injury may at any time be classified as a catastrophic injury if a change in the nature of the injury brings it within the definition of "catastrophic injury."

Under existing law, an insurer is required to develop a life care plan for an injured employee who suffers a catastrophic injury within 90 days after the insurer accepts the injured employee's claim. (NRS 616C.700) Section 1.6 of this bill requires the insurer to develop a life care plan within 120 days after the treating physician determines that the injured employee's injury has stabilized and that the injured employee requires a life care plan. Section 1.6 also sets forth specific requirements for the development and implementation of the life care plan.

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

Section 1. [NRS 616C.392 is hereby amended to read as follows:

616C.392 1. An insurer shall reopen a claim to consider the payment of compensation for a permanent partial disability if:

(a) The claim was closed and the claimant was not scheduled for an evaluation of the injury in accordance with NRS 616C.490;~~and~~

(b) The claimant demonstrates by a preponderance of the evidence that, at the time that the case was closed, the claimant was, because of the injury, qualified to be scheduled for an evaluation for a permanent partial disability.
~~†; and~~

~~(c) The insurer has violated a provision of NRS 616D.120 with regard to the claim.†~~

2. The demonstration required pursuant to paragraph (b) of subsection 1 must be made with documentation that existed at the time that the case was closed.

3. Notwithstanding any specific statutory provision to the contrary, the consideration of whether a claimant is entitled to payment of compensation for a permanent partial disability for a claim that is reopened pursuant to this section must be made in accordance with the provisions of the applicable statutory and regulatory provisions that existed on the date on which the claim was closed, including, without limitation, using the edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that was applicable on the date the claim was closed.]. **(Deleted by amendment.)**

Sec. 1.1. NRS 616A.077 is hereby amended to read as follows:

616A.077 "Catastrophic injury" means an injury sustained from an accident and resulting in:

1. The total loss of sight in one or both eyes;
2. The total loss of hearing in one or both ears;
3. The loss by separation of any arm or leg;
4. An injury to the head or spine which results in paralysis of the legs, the arms or both the legs and arms;

5. An injury to the head which results in severe cognitive impairment, as determined by a nationally recognized method of objective psychological testing;

6. An injury consisting of second or third degree burns on 50 percent or more of:

(a) The body;
(b) Both hands; or
(c) The face;

7. The total loss of or significant and permanent impairment of speech;
~~†; or†~~

8. **A coma or vegetative state;**

9. The loss or significant impairment of function of one or more vital internal organs or organ systems;

10. The mangling, crushing or amputation of a major portion of an extremity;

11. An injury which the insurer and the injured employee agree should be administered as a claim for a catastrophic injury;

12. An injury determined to be a catastrophic injury pursuant to section 1.4 of this act; or

13. Any other category of injury deemed to be catastrophic as determined by the Administrator.

Sec. 1.2. NRS 616A.080 is hereby amended to read as follows:

616A.080 "Certified vocational rehabilitation counselor" means a person who:

1. Has a master's degree in rehabilitation counseling; ~~for~~
 2. Has been certified as a rehabilitation counselor ~~for an insurance rehabilitation specialist~~ by the Commission on Rehabilitation Counselor Certification ~~which is a division of the Board for Rehabilitation Certification~~; ~~or~~

3. Has been certified as an insurance rehabilitation specialist by the Certification of Disability Management Specialists Commission.

Sec. 1.3. Chapter 616C of NRS is hereby amended by adding thereto the provisions set forth as sections 1.4 and 1.5 of this act.

Sec. 1.4. 1. An injured employee may submit to an insurer a written request for a determination that his or her injury should be administered as a claim for a catastrophic injury.

2. If an employee submits a written request to an insurer pursuant to subsection 1, the insurer shall issue a written determination concerning the request not later than 30 days after receipt of the request.

Sec. 1.5. An insurer that did not originally accept a claim as a claim for a catastrophic injury shall designate the claim as a claim for a catastrophic injury if at any time after the claim is accepted the injury satisfies the requirements for a catastrophic injury.

Sec. 1.6. NRS 616C.700 is hereby amended to read as follows:

616C.700 1. Notwithstanding any other provision of this chapter, if an insurer accepts a claim for a catastrophic injury, the insurer shall:

(a) As soon as reasonably practicable after the date of acceptance of the claim, assign the claim to a qualified adjuster, nurse and vocational rehabilitation counselor; ~~and~~

(b) Within ~~100~~ **120** days after the date ~~of acceptance of the claim~~, on which the treating physician determines that the condition of the injured employee has stabilized and that the injured employee requires a life care plan, develop a life care plan in consultation with the adjuster, nurse and vocational rehabilitation counselor assigned to the claim pursuant to paragraph ~~((a))~~ **(a); and**

(c) Pay benefits and provide the proper medical services to the injured employee during the entire period of the development and implementation of the life care plan.

2. A life care plan which is developed pursuant to subsection 1 must ensure the prompt, efficient and proper provision of medical services to the injured employee.

3. ~~The Administrator shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations prescribing:~~

~~(a) The form and content of a life care plan; and~~
~~(b) The frequency and method of communication by which the insurer shall contact the injured employee or the family members or representative of the injured employee.~~ In developing a life care plan for an injured employee, the insurer, in consultation with the adjuster, nurse and vocational rehabilitation counselor assigned to the claim pursuant to paragraph (a) of subsection 1, shall assess the following:

(a) The number of home or hospital visits determined to be necessary or appropriate by the registered nurse and vocational rehabilitation counselor;

(b) The life expectancy of the injured employee;

(c) The medical needs of the injured employee, including, without limitation:

(1) Surgery;

(2) Prescription medication;

(3) Physical therapy; and

(4) Maintenance therapy;

(d) The effect, if any, of any preexisting medical condition; and

(e) The potential of the injured employee for rehabilitation, taking into account:

(1) The injured employee's medical condition, age, educational level, work experience and motivation; and

(2) Any other relevant factors.

4. A life care plan developed pursuant to paragraph (b) of subsection 1 must include, without limitation, a schedule for the adjuster, nurse and vocational rehabilitation counselor assigned to the claim pursuant to paragraph (a) of subsection 1 to meet or communicate with the injured employee, if practicable, and the treating physician to determine the need for, without limitation:

(a) Special medical attention or treatment;

(b) Psychological counseling or testing; and

(c) Any medical device, including, without limitation:

(1) A wheelchair;

(2) A prosthesis; and

(3) A specially equipped or designed motor vehicle.

5. A life care plan developed pursuant to paragraph (b) of subsection 1 must include a plan of action for treatment or vocational rehabilitation of

the injured employee or consideration of the possible permanent total disability of the injured employee.

6. In addition to any claim determination affecting the rights of an injured employee under his or her claim, or responses to requests on behalf of the injured employee for specific action or information on the claim or any other contact that may occur, an insurer shall:

(a) Schedule a personal meeting concerning the status of the claim to take place at least once per calendar month between the adjuster assigned to the claim pursuant to paragraph (a) of subsection 1 and the injured employee or a family member or designated representative of the injured employee; or

(b) If a personal meeting described in paragraph (a) is not practicable, provide a written report concerning the status of the claim and soliciting requests and information at least once per calendar month to the injured employee or a family member or designated representative of the injured employee. The report must be mailed to the injured employee or a family member or designated representative of the injured employee by first-class mail.

7. Except as otherwise provided in this subsection, a life care plan developed pursuant to paragraph (b) of subsection 1 must be based on the condition of the injured employee at the time the life care plan is established. If there is a substantial or significant change in the condition or prognosis of the injured employee, the insurer shall amend the life care plan to reflect the change in the condition or prognosis of the injured employee.

Sec. 1.7. NRS 616C.720 is hereby amended to read as follows:

616C.720 ~~1.1~~ An adjuster who administers a claim for a catastrophic injury must ~~be competent and qualified to administer such a claim.~~

~~2. The Administrator shall adopt regulations establishing qualifications for an adjuster to administer a claim for a catastrophic injury.:~~

1. Have at least 4 years of experience in adjusting workers' compensation claims for lost time; or

2. Have at least 2 years of experience in adjusting workers' compensation claims for lost time and work under the direct supervision of an adjuster who has at least 4 years of experience in adjusting such claims.

Sec. 2. This act becomes effective upon passage and approval.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Senate Bill No. 21 is one of the negotiated bills on worker compensation. This addresses catastrophic injuries. If someone has a catastrophic injury in worker's compensation, this certifies that we license vocational rehabilitation people. We move a person with a catastrophic injury into a separate category where there is a life plan drawn up for them. They do not have to navigate the system as a less severely injured person would. They are taken out of the system

and moved forward. This is a good bill. We have been working on this for four years. It is supported by all business entities and labor groups.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 99.

Bill read second time.

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

Amendment No. 305.

"SUMMARY—Makes various changes concerning consumer protection. (BDR 52-127)"

"AN ACT relating to consumer protection; requiring ~~the Consumer Affairs Division of the Department of Business and Industry to regulate the activities of grant writing services that do business in this State; requiring a~~ certain grant writing ~~service~~ services to register ~~and deposit security~~ with the ~~Division before doing business in this State;~~ Director of the Department of Business and Industry; requiring the Director to publish a list of registered grant writing services on an Internet website maintained by the Director; requiring a grant writing service to provide certain statements to a buyer before the execution of a contract for grant writing services; prescribing certain mandatory terms of a contract for grant writing services; ~~revising the definition of "goods and services" as that term relates to solicitations by telephone; revising criminal penalties for violations of provisions relating to solicitations by telephone;~~ providing penalties; ~~providing a fee;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~† Assembly Bill No. 561 of the 2009 Legislative Session temporarily eliminated the Commissioner of Consumer Affairs and the Consumer Affairs Division of the Department of Business and Industry for the 2009-2011 biennium. (Sections 3 and 4 of chapter 475, Statutes of Nevada 2009, pp. 2696-97) As a result, the Attorney General assumed sole responsibility for the enforcement of the provisions of chapter 598 of NRS governing deceptive trade practices and the provisions of chapter 599B of NRS governing solicitations by telephone. Effective July 1, 2011, the Commissioner of Consumer Affairs and the Consumer Affairs Division will be restored and will again share responsibility for the enforcement of these provisions with the Attorney General.~~

~~Section 24 of this bill revises the definition of "goods or services" for the purpose of the provisions governing solicitations by telephone to clarify that the term includes, without limitation, any service, loan or any other extension of credit, insurance or any investment or opportunity for investment.~~

~~Existing law provides for graduated penalties for willful violations of the provisions governing solicitations by telephone. A person who willfully violates such provisions is guilty of a misdemeanor for the first offense~~

~~within 10 years. For the second offense within 10 years, the person is guilty of a gross misdemeanor. For the third and all subsequent offenses within 10 years, such a person is guilty of a category D felony and is subject to imprisonment, a fine of not more than \$50,000, or both imprisonment and a fine. (NRS 599B.255) Section 25 of this bill makes any willful violation of the provisions governing solicitations by telephone a category B felony, punishable by imprisonment, a fine of not less than the amount lost by all buyers who are injured by the violation plus an additional amount of not less than \$10,000 and not more than \$50,000, or by both imprisonment and a fine.~~

Sections 2-23 of this bill create provisions governing grant writing services in this State and vest the ~~{Commissioner and the Division}~~ **Director of the Department of Business and Industry** with authority to enforce these provisions. Section 7 defines "grant writing service." ~~{Sections 9-12 and 14 establish registration requirements for grant writing services, including the payment of a registration fee, and requirements concerning the deposit of security with the Division.}~~ **Section 9 requires certain grant writing services to register with the Director, but exempts from the provisions of sections 2-23 certain grant writing services that offer services relating to affordable housing and community development projects. Section 9 also requires the Director to publish a list of registered grant writing services on an Internet website maintained by the Director.**

Section 13 prohibits a grant writing service from engaging in certain activities. ~~{Section 15 requires a grant writing service to provide certain written statements to a buyer before the execution of a contract or before the receipt of any payment by the grant writing service.}~~ Section 16 establishes certain requirements for a contract for grant writing services. ~~{Section 17 sets forth the circumstances which create an irrefutable presumption that a person intends to do business and is regularly conducting business in Nevada. Section 20 provides a remedy for any buyer injured by a grant writing service, and section 21 provides that a person who violates sections 2-23 is guilty of a category B felony.}~~ **Section 22 authorizes the Director to take certain actions if a person violates the provisions of sections 2-23 and provides that such a violation is a deceptive trade practice.** Section 23 requires the ~~{Division}~~ **Director** to adopt regulations to carry out the provisions of sections 2-23.

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 23, inclusive, of this act.

Sec. 2. *As used in sections 2 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Buyer" means a natural person who is solicited to purchase or who purchases the services of a grant writing service.*

Sec. 3.5. *"Director" means the Director of the Department of Business and Industry.*

Sec. 4. *(Deleted by amendment.)*

Sec. 5. *(Deleted by amendment.)*

Sec. 6. *"Grant" means any money given by a governmental entity or any other person or organization to finance a specific or general purpose.*

Sec. 7. *"Grant writing service" means a person who, with respect to obtaining any grant or other payment, loan or money, advertises, sells, provides or performs, or represents that he or she can or will sell, provide or perform, any of the following services in return for the payment of money or other valuable consideration:*

1. *Writing an application for a grant for a buyer.*
2. *Obtaining a grant for a buyer.*
3. *Providing advice or assistance to a buyer in obtaining a grant.*

Sec. 8. *(Deleted by amendment.)*

Sec. 9. 1. ~~*Each*~~ *Except as otherwise provided in subsection 3, each grant writing service regulated by the provisions of sections 2 to 23, inclusive, of this act shall apply for registration on the form prescribed by the* ~~*Division.*~~

~~*2. At the time of application for registration, an applicant shall pay to the Division an administrative fee of \$25 and deposit the security required pursuant to section 10 of this act with the Division.*~~

~~*3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:*~~

~~*(a) Is not transferable or assignable; and*~~

~~*(b) Expires 1 year after it is issued.*~~

~~*4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.*~~ *Director. Upon approval of an application submitted pursuant to this subsection, the Director shall issue a certificate of registration to the grant writing service.*

2. The Director shall publish on an Internet website maintained by the Director a complete list of all grant writing services which are registered pursuant to this section.

3. The provisions of sections 2 to 23, inclusive, of this act do not apply to a grant writing service which provides services relating to an affordable housing and community development project which is financed, in whole or in part, by tax credits for low-income housing, private activity bonds or money provided by a private entity, government, governmental agency or political subdivision of a government, including, without limitation, any

money provided pursuant to 12 U.S.C. § 1701q, 26 U.S.C. § 42, 42 U.S.C. § 8013 or 42 U.S.C. §§ 12701 et seq.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. *A grant writing service shall not:*

~~1. Charge or receive any money or other valuable consideration before full and complete performance of the services that the grant writing service has agreed to perform for or on behalf of the buyer.~~

~~2. If the grant writing service makes a promise express or implied that the grant writing service can or will obtain a grant for a buyer, charge or receive any money or other valuable consideration before the buyer has received the grant.~~

~~3.~~ Charge or receive any money or other valuable consideration solely for referral of a buyer to a governmental entity or other person or organization which provides grants.

~~4.~~ 2. Make a false or misleading representation in the offer or sale of the services of the grant writing service.

~~5.~~ 3. Hire or obtain the services of a seller, as that term is defined in NRS 599B.010, who does not comply with the provisions of chapter 599B of NRS.

4. Advertise his or her services or conduct business in this State unless the grant writing service is registered pursuant to section 9 of this act.

5. Execute a contract with a buyer or receive any money or other valuable consideration from a buyer before the grant writing service provides to the buyer:

(a) A written statement which must be printed in at least 10-point bold type and which must include, without limitation:

(1) A detailed description of the services to be performed by the grant writing service for the buyer and the total amount the buyer is obligated to pay for those services;

(2) The physical address of the grant writing service and the non-toll free telephone number of the grant writing service;

(3) A statement that the grant writing service is registered pursuant to section 9 of this act; and

(4) Any other information required by the Director; and

(b) A copy of the certificate of registration issued to the grant writing service pursuant to section 9 of this act.

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. ~~1.~~ A contract between a buyer and a grant writing service for the purchase of the services of the grant writing service:

~~(a)~~ 1. Must be in writing.

~~(b)~~ 2. Must be signed by the buyer.

~~(c)~~ 3. Must be dated.

~~[(d)]~~ 4. Must clearly indicate above the signature line that the buyer may cancel the contract within 5 days after execution of the contract by giving written notice to the grant writing service of his or her intent to cancel the contract. If the notice is mailed, the notice must be postmarked not later than 5 days after the execution of the contract.

~~f 2. A grant writing service shall retain a copy of each contract executed by a buyer and the grant writing service for not less than 2 years.]~~

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. 1. ~~[The provisions of sections 2 to 23, inclusive, of this act are not exclusive and do not relieve the parties or contracts subject thereto from compliance with any other applicable provision of law.]~~

~~2. The remedies provided in sections 20 and 21 of this act for a violation of any provision of sections 2 to 23, inclusive, of this act are in.]~~ In addition to any other procedures or remedies for any violation or conduct provided for in any other law ~~f~~

~~3.]~~ , if the Director determines that a person has violated any provision of sections 2 to 23, inclusive, of this act, the Director may:

(a) Issue an order to the person to cease and desist from engaging in the practice or activity constituting the violation;

(b) Order the person to pay the costs of any investigation of the violation incurred by the Director;

(c) Order the person to provide restitution for any money or property improperly received or obtained by the person as a result of the violation; and

(d) Impose a civil penalty in an amount not to exceed \$10,000 for each violation.

2. Any violation of sections 2 to 23, inclusive, of this act constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 23. ~~The [Division]~~ Director shall adopt such regulations as are necessary to carry out the provisions of sections 2 to 23, inclusive, of this act.

Sec. 24. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. "Commissioner" means the Commissioner of Consumer Affairs.

3. "Consumer" means a person who is solicited by a seller or salesperson.

4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

5. "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

6. "Goods or services" means any property, ~~≠~~

~~(a) Any property or product, whether~~ tangible or intangible, real, personal or mixed, and any other article, commodity or thing ~~≠~~

~~(b) Any service, including, without limitation, financial service;~~

~~(c) A loan or any other extension of credit;~~

~~(d) Insurance;~~

~~(e) Any investment or opportunity for investment;~~

~~(f) A prize, bonus, award, gift or any other inducement to act; or~~

~~(g) Anything~~ of value.

7. "Premium" includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

8. "Recovery service" means a business or other practice whereby a person represents or implies that he or she will, for a fee, recover any amount of money that a consumer has provided to a seller or salesperson pursuant to a solicitation governed by the provisions of this chapter.

9. "Salesperson" means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

↪ except that a person is not a salesperson if his or her only function is to identify a consumer by name only and he or she immediately refers the consumer to a salesperson.

10. Except as otherwise provided in subsection 11, "seller" means any person who, on his or her own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salespersons or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) ***That the product offered for sale is the services of a grant writing service, as that term is defined in section 7 of this act;***

(6) That the product offered for sale is the services of a recovery service; or

~~+(6)+~~ (7) That the consumer will receive a premium or goods or services if he or she makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he or she makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

11. "Seller" does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his or her license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his or her license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his or her license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or \$50, whichever is less; or

(2) The consumer provides a donation of \$50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, videocassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

- (2) Includes the business address of the person;
- (3) Includes at least 24 pages of written material and illustrations;
- (4) Is distributed in more than one state; and
- (5) Has an annual circulation by mailing of not less than 250,000.

(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.

(m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.

(n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.

(o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his or her license.

(p) A person soliciting the sale of services provided by a video service provider subject to regulation pursuant to chapter 711 of NRS.

(q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than \$100 that is to be delivered to one address. As used in this paragraph, "agricultural products" has the meaning ascribed to it in NRS 587.290.

(r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:

(1) Goods are displayed and offered for sale or services are offered for sale and provided at the person's business establishment; and

(2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.

(s) A person soliciting only the sale of telephone answering services to be provided by the person or his or her employer.

(t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq.; and

(2) The registration or license has not expired or been suspended or revoked.

(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:

- (1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a non-restricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his or her license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 25. (Deleted by amendment.)

Sec. 25.5. The Director of the Department of Business and Industry shall adopt any regulations necessary to carry out the provisions of sections 2 to 23, inclusive, of this act on or before October 1, 2011.

Sec. 26. This act becomes effective ~~on July 1, 2011,~~ upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

Senator Halseth moved the adoption of the amendment.

Remarks by Senator Halseth.

Senator Halseth requested that her remarks be entered in the Journal.

Amendment No. 305 to Senate Bill No. 99 deletes the references to the Division of Consumer Affairs and assigns the responsibilities under the bill to the Director of the Department of Business and Industry.

The amendment deletes many of the provisions in the original bill and establishes a more focused regulatory apparatus for grant writing services. For example, the amendment provides that the bill does not apply to a consultant for certain affordable housing and community development projects. It also leaves the existing statutory definition of the term "goods and services" unchanged.

It establishes a registration process for grant writers with the Director and provides remedies and penalties the Director may impose for noncompliance.

The amendment also changes the effective dates of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 113.

Bill read second time.

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

Amendment No. 134.

"SUMMARY—Revises provisions relating to the care of certain children during disasters. (BDR 38-198)"

"AN ACT relating to children; requiring foster homes to develop and implement plans to care for children during a disaster; **requiring agencies which provide child welfare services to develop and implement such plans;** requiring the Division of Child and Family Services of the Department of Health and Human Services to **adopt regulations to establish the minimum requirements and procedures for such plans; requiring the Division to** develop a plan to care for ~~certain~~ children **in the custody of another agency which provides child welfare services** during a disaster; providing a penalty ~~if~~ **in certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations in consultation with other agencies which provide child welfare services to establish minimum requirements and procedures for plans regarding the care of children in their custody during a disaster. In addition, section 5 requires each agency which provides child welfare services to develop and implement a plan for the care of children in its custody during a disaster which is consistent with those regulations and provide a copy of that plan to each person or entity who has physical custody of such children. Section 6 of this bill requires the Division to develop a plan for the care of children in the custody of other agencies which provide child welfare services during a disaster to ensure that the Division is prepared to meet the needs of those children if the other agency is unable to meet those needs. Section 1 of this bill requires a foster home to develop and implement a plan for the care of children in the foster home during disasters and requires the **a disaster which is consistent with plans and regulations adopted by the** ~~Division of Child and Family Services of the Department of Health and Human Services to prescribe the minimum requirements and procedures for such plans. A violation of the requirement to develop and implement a plan pursuant to section 1 is a misdemeanor. (NRS 424.100)~~

~~Section 3 of this bill requires the Division to develop a plan to care for children during disasters if an agency which provides child welfare services is unable to respond to the needs of children in its custody during such disasters. Section 3 also requires the Division to provide a summary of the plan to the Legislative Committee on Child Welfare and Juvenile Justice and to post a summary of the plan on its Internet website.] and other agencies which provide child welfare services pursuant to sections 5 and 6. Sections 8 and 9 of this bill similarly require a facility for the detention~~

of children to develop and implement such a plan which is consistent with the plans and regulations adopted pursuant to sections 5 and 6.

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee that operates a foster home shall develop and implement a plan for the care of children in the foster home during ~~disasters~~ a disaster. The plan must be developed and implemented in accordance with the plans and regulations adopted pursuant to ~~subsection 2.~~

~~2. The Division shall, in consultation with each licensing authority in a county whose population is 100,000 or more, adopt regulations concerning the development and implementation of plans for the care of children in foster homes during disasters, including, without limitation, minimum requirements and procedures for such plans.~~

~~3. sections 4 and 5 of this act.~~

2. As used in this section, "disaster" ~~means a fire, flood, earthquake, explosion, civil disturbance or any other occurrence or threatened occurrence that, regardless of cause:~~

~~(a) Results in, or may result in, widespread or severe damage to property or injury to, or the death of, persons in a foster home; or~~

~~(b) As determined by a licensing authority or a licensee that operates a foster home, requires immediate action to protect the health, safety and welfare of persons in the foster home.~~ **has the meaning ascribed to it in section 4 of this act.**

Sec. 2. NRS 424.090 is hereby amended to read as follows:

424.090 The provisions of NRS 424.020 to 424.090, inclusive, **and section 1 of this act** do not apply to homes in which:

1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.

4. Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.

5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is:

(a) Related to the caregiver by blood, adoption or marriage; and

(b) Not in the custody of an agency which provides child welfare services.

7. Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS if:

(a) The caregiver is related to the child within the fifth degree of consanguinity; and

(b) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive ~~¶~~, *and section 1 of this act.*

Sec. 3. Chapter 432 of NRS is hereby amended by adding thereto ~~to new section to read as follows:~~ the provisions set forth as sections 4, 5 and 6 of this act.

Sec. 4. As used in sections 4, 5 and 6 of this act, unless the context otherwise requires, "disaster" means a fire, flood, earthquake, explosion, civil disturbance or any other occurrence or threatened occurrence that, regardless of cause:

1. Results in, or may result in, widespread or severe damage to property or injury to, or the death of, children in the custody of an agency which provides child welfare services; or

2. As determined by the Division, requires immediate action to protect the health, safety and welfare of children in the custody of an agency which provides child welfare services.

Sec. 5. 1. Each agency which provides child welfare services shall develop and implement a plan for the care of children in its custody during a disaster. The plan must be developed and implemented in accordance with the regulations adopted pursuant to subsection 2 and must be provided to each person or entity which has physical custody of the children.

2. The Division shall, in consultation with each other agency which provides child welfare services, adopt regulations which concern the development and implementation of plans for the care of children in the custody of an agency which provides child welfare services during a disaster and which establish the minimum requirements and procedures for such plans. Such regulations must require that the plans include, without limitation, a plan for:

(a) Providing temporary shelter to children;

(b) Evacuating children from the home;

(c) Caring for children with disabilities or who have special medical needs;

(d) Communicating with the persons or entities which have physical custody of the children before, during and after a disaster;

(e) Coordinating with other emergency management entities and juvenile courts during a disaster; and

(f) Providing services to children to address the emotional impact of the disaster.

3. The regulations adopted pursuant to subsection 2 must include, without limitation, regulations concerning the development and implementation of plans for the care of children in the custody of an agency which provides child welfare services who have been placed in a facility for the detention of children.

Sec. 6. 1. The Division shall develop a plan for the care of children in the custody of other agencies which provide child welfare services during ~~disasters~~ a disaster to ensure that the Division ~~for a designee of~~

~~the Division meets]~~ is prepared to meet the needs of children in the custody of ~~[agencies]~~ each other agency which ~~[provide]~~ provides child welfare services if an agency is unable to meet the needs of children in its custody during a disaster. The Division may implement the plan at any time if the Division determines that it is necessary, regardless of whether the agency which provides child welfare services has requested assistance.

2. The Division shall provide such training as it deems necessary to ensure that staff is aware of the plan that is developed and that the staff responsible for carrying out the plan understand their responsibilities and are prepared to carry out those responsibilities. Any such training may include, without limitation, exercises to allow staff to practice carrying out their responsibilities during a disaster.

3. The Division shall submit to the Legislative Committee on Child Welfare and Juvenile Justice and post on its Internet website a summary of the plan for the care of children during ~~[disasters]~~ a disaster developed pursuant to this section. If the Division makes any changes to the plan, the Division shall provide to the Committee and post on its Internet website an updated summary of the plan.

~~f 3. As used in this section, "disaster" means a fire, flood, earthquake, explosion, civil disturbance or any other occurrence or threatened occurrence that, regardless of cause:~~

~~(a) Results in, or may result in, widespread or severe damage to property or injury to, or the death of, children in the custody of an agency which provides child welfare services; or~~

~~(b) As determined by the Division, requires immediate action to protect the health, safety and welfare of children in the custody of an agency which provides child welfare services.]~~

~~[Sec. 4.]~~ **Sec. 7.** NRS 432.0305 is hereby amended to read as follows:

432.0305 The Department, through the Division, shall:

1. Observe and study the changing nature and extent of the need for child welfare services and develop through tests and demonstrations effective ways of meeting those needs.

2. Cooperate with the Federal Government in adopting state plans, in all matters of mutual concern, including the adoption of methods of administration found by the Federal Government to be necessary for the efficient operation of programs for child welfare, and in increasing the efficiency of those programs by prompt and judicious use of new federal grants which will assist the Division in carrying out the provisions of NRS 432.010 to 432.085, inclusive ~~[, and ~~section 3]~~ sections 4, 5 and 6 of this act~~. The Department shall consider any request for a change in the state plan submitted by an agency which provides child welfare services.

3. Enter into reciprocal agreements with other states relative to services for child welfare and institutional care, when deemed necessary or convenient by the Administrator.

4. Enter into agreements with an agency which provides child welfare services in a county whose population is 100,000 or more when deemed necessary or convenient by the Administrator.

5. Accept money from and cooperate with the United States or any of its agencies in carrying out the provisions of NRS 432.010 to 432.085, inclusive, ~~and section 37~~ ***sections 4, 5 and 6 of this act*** and of any federal acts pertaining to public child welfare and youth services, insofar as authorized by the Legislature.

Sec. 8. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A facility for the detention of children to which a juvenile court commits a child shall develop and implement a plan for the care of children in the facility during disasters. The plan must be developed and implemented in accordance with the plans and regulations adopted pursuant to sections 4 and 5 of this act.

2. As used in this section, "disaster" has the meaning ascribed to it in section 4 of this act.

Sec. 9. Chapter 63 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The superintendent of a facility shall develop and implement a plan for the care of children in the facility during disasters. The plan must be developed and implemented in accordance with the plans and regulations adopted pursuant to sections 4 and 5 of this act.

2. As used in this section, "disaster" has the meaning ascribed to it in section 4 of this act.

~~Sec. 5-1~~ **Sec. 10.** This act becomes effective on July 1, 2011.

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. 134 revises the provisions of Senate Bill No. 113 by requiring the Division of Child and Family Services to adopt regulations in consultation with other agencies that provide child welfare services to establish minimum requirements and procedures for plans regarding the care of children in their custody during a disaster. In addition, these child welfare agencies are required to develop and implement the plan that is consistent with the regulations and to disseminate it to each person or entity that has physical custody of a child who is in the custody of the agency and further requiring facilities for the detention of children to develop and implement a similar plan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 140.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 99.

"SUMMARY—Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances. (BDR 43-45)"

"AN ACT relating to traffic laws; prohibiting a person from using a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing traffic laws of this State, it is a crime to engage in various activities while operating a motor vehicle or to operate a motor vehicle in a reckless or unsafe manner. (Chapters 484A-484E of NRS) **Section 1** of this bill makes it a crime for a person to manually type or enter text into a cellular telephone or other similar device, or to send or read data using any such device, while operating a motor vehicle. **Section 1** further prohibits a person from using such a device for voice communications unless the device is used with an accessory which allows the person to communicate without using his or her hands, with certain limited exceptions. **Section 1** provides an exception to the prohibitions when the cellular telephone or other device is used by ~~law enforcement officers and other~~ **certain** emergency personnel **and persons designated by a sheriff or chief of police or the Director of the Department of Public Safety** who are acting within the course and scope of their employment. Additional exceptions apply if the person is using the cellular telephone or other device to report or request assistance relating to a medical emergency, a safety hazard or criminal activity, or if the person is responding to a situation requiring immediate action and stopping the vehicle would be inadvisable, impractical or dangerous. A violation of the provisions added by **section 1** is a misdemeanor and punishable by a fine of ~~\$250~~ **\$50** for a first offense within the immediately preceding 7 years, ~~\$500~~ **\$100** for a second offense within the immediately preceding 7 years and ~~\$1,000~~ **\$250** for a third or subsequent offense within the immediately preceding 7 years. *However, section 4 of this bill provides that until January 1, 2012, a law enforcement officer must not issue a citation to a person for violating section 1 but must give the person a verbal or written warning.* **Section 1** further provides that a first offense will not be treated as a moving traffic violation. Additionally, if a person is convicted of a third or subsequent offense, in addition to the fine, the driver's license of the person will be suspended for 6 months. **Section 2** of this bill makes the enhanced penalty for certain traffic violations that occur in a temporary traffic control zone applicable to violations of these new crimes.

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

Section 1. Chapter 484B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State:

(a) Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using any such device to access or search the Internet or to engage in nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging.

(b) Use a cellular telephone or other handheld wireless communications device to engage in voice communications with the another person, unless the device is used with an accessory which allows the person to communicate without using his or her hands, other than to activate, deactivate or initiate a feature or function on the device.

2. The provisions of this section do not apply to:

(a) A paid or volunteer firefighter, ~~law enforcement officer,~~ emergency medical technician, ambulance attendant or other person trained to provide emergency medical services who is acting within the course and scope of his or her employment.

(b) A person designated by a sheriff or chief of police or the Director of the Department of Public Safety who is acting within the course and scope of his or her employment.

~~(c)~~ A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity.

~~((c))~~ (d) A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous.

3. The provisions of this section do not prohibit the use of a voice-activated global positioning or navigation system that is affixed to the vehicle.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense within the immediately preceding 7 years, shall pay a fine of ~~+\$250.~~ \$50.

(b) For the second offense within the immediately preceding 7 years, shall pay a fine of ~~+\$500.~~ \$100.

(c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of ~~+\$1,000.~~ \$250.

5. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130.

6. ~~If a person is found guilty of a third or subsequent offense of subsection 1, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for 6 months. 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 6 months. 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.~~

~~7. The Department of Motor Vehicles~~

~~(a) Shall~~ shall not treat a first 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.~~

~~8. 7.~~ For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law.

8. As used in this section, "handheld wireless communications device" means a handheld device for the transfer of information without the use of electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device. The term does not include a device used for two-way radio communications if:

(a) The person using the device has a license to operate the device, if required; and

(b) All the controls for operating the device, other than the microphone and a control to speak into the microphone, are located on a unit which is used to transmit and receive communications and which is separate from the microphone and is not intended to be held.

Sec. 2. NRS 484B.130 is hereby amended to read as follows:

484B.130 1. Except as otherwise provided in subsections 2 and 6, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603, 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, **or section 1 of this act**, that occurred:

(a) In an area designated as a temporary traffic control zone; and

(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,

➤ shall be punished by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not

create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

2. The additional penalty imposed pursuant to subsection 1 must not exceed a total of \$1,000, 6 months of imprisonment or 120 hours of community service.

3. Except as otherwise provided in subsection 5, a governmental entity that designates an area or authorizes the designation of an area as a temporary traffic control zone in which construction, maintenance or repair of a highway or other work is conducted, or the person with whom the governmental entity contracts to provide such service, shall cause to be erected:

(a) A sign located before the beginning of such an area stating "DOUBLE PENALTIES IN WORK ZONES" to indicate a double penalty may be imposed pursuant to this section;

(b) A sign to mark the beginning of the temporary traffic control zone; and

(c) A sign to mark the end of the temporary traffic control zone.

4. A person who otherwise would be subject to an additional penalty pursuant to this section is not relieved of any criminal liability because signs are not erected as required by subsection 3 if the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

5. The requirements of subsection 3 do not apply to an area designated as a temporary traffic control zone:

(a) Pursuant to an emergency which results from a natural or other disaster and which threatens the health, safety or welfare of the public; or

(b) On a public highway where the posted speed limit is 25 miles per hour or less and that provides access to or is appurtenant to a residential area.

6. A person who would otherwise be subject to an additional penalty pursuant to this section is not subject to an additional penalty if the violation occurred in a temporary traffic control zone for which signs are not erected pursuant to subsection 5, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

Sec. 3. NRS 707.375 is hereby amended to read as follows:

707.375 1. ~~Any~~ **Except as otherwise provided in section 1 of this act,** an agency, board, commission or political subdivision of this State, including, without limitation, any agency, board, commission or governing body of a local government, shall not regulate the use of a telephonic device by a person who is operating a motor vehicle.

2. As used in subsection 1, "telephonic device" means a cellular phone, satellite phone, portable phone or any other similar electronic device that is handheld and designed or used to communicate with ~~any~~ **another** person.

Sec. 4. Notwithstanding the provisions of section 1 of this act, on or before December 31, 2011, a law enforcement officer shall not issue a citation for a violation of the provisions of section 1 of this act but shall issue a verbal or written warning to a person who violates those provisions informing the person that he or she has violated the provisions of section 1 of this act and of the penalties that will apply to such a violation after December 31, 2011.

Senator Breeden moved the adoption of the amendment.

Remarks by Senators Breeden and Denis.

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

SENATOR BREEDEN:

Amendment No. 99 to Senate Bill No. 140 expands the list of law enforcement personnel exempted from the provisions of the bill. The amendment reduces the fines for violations and stipulates that law enforcement will not issue citations for a violation until January 1, 2012. Any violations that occur between October 1, 2011, the bill's effective date, and December 31, 2011, would result in a verbal or written warning. Amendment No. 99 also excludes certain two-way communication devices from the definition of a "handheld wireless communications device."

SENATOR DENIS:

I would like clarification on the last statement where you said it excludes additional wireless devices.

SENATOR BREEDEN:

The intent of the bill was not to disrupt industries such as the trucking industry, the cab industry or the use of CB radios. We defined the actual device in the bill for the "push to talk" radios.

SENATOR DENIS:

Does that include short-wave radios?

SENATOR BREEDEN:

That will be dealt with in the next amendment.

Amendment adopted.

The following amendment was proposed by Senator Breeden:

Amendment No. 483.

"SUMMARY—Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances. (BDR 43-45)"

"AN ACT relating to traffic laws; prohibiting a person from using a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing traffic laws of this State, it is a crime to engage in various activities while operating a motor vehicle or to operate a motor vehicle in a reckless or unsafe manner. (Chapters 484A-484E of NRS) **Section 1** of this bill makes it a crime for a person to manually type or enter text into a cellular telephone or other similar device, or to send or read data using any such

device, while operating a motor vehicle. **Section 1** further prohibits a person from using such a device for voice communications unless the device is used with an accessory which allows the person to communicate without using his or her hands, with certain limited exceptions. **Section 1** provides an exception to the prohibitions when the cellular telephone or other device is used by law enforcement officers and other emergency personnel who are acting within the course and scope of their employment. Additional exceptions apply if : **(1)** the person is using the cellular telephone or other device to report or request assistance relating to a medical emergency, a safety hazard or criminal activity, ~~or if~~ : **(2)** the person is responding to a situation requiring immediate action and stopping the vehicle would be inadvisable, impractical or dangerous, ~~or~~ : **or (3) the person is a licensed amateur radio operator providing communications services in connection with a disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information.** A violation of the provisions added by **section 1** is a misdemeanor and punishable by a fine of \$250 for a first offense within the immediately preceding 7 years, \$500 for a second offense within the immediately preceding 7 years and \$1,000 for a third or subsequent offense within the immediately preceding 7 years. **Section 1** further provides that a first offense will not be treated as a moving traffic violation. Additionally, if a person is convicted of a third or subsequent offense, in addition to the fine, the driver's license of the person will be suspended for 6 months. **Section 2** of this bill makes the enhanced penalty for certain traffic violations that occur in a temporary traffic control zone applicable to violations of these new crimes.

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

Section 1. Chapter 484B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State:

(a) Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using any such device to access or search the Internet or to engage in nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging.

(b) Use a cellular telephone or other handheld wireless communications device to engage in voice communications with the another person, unless the device is used with an accessory which allows the person to communicate without using his or her hands, other than to activate, deactivate or initiate a feature or function on the device.

2. The provisions of this section do not apply to:

(a) A paid or volunteer firefighter, law enforcement officer, emergency medical technician, ambulance attendant or other person trained to

provide emergency medical services who is acting within the course and scope of his or her employment.

(b) A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity.

(c) A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous.

(d) A person who is licensed by the Federal Communications Commission as an amateur radio operator and who is providing a communication service in connection with an actual or impending disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information.

3. The provisions of this section do not prohibit the use of a voice-activated global positioning or navigation system that is affixed to the vehicle.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense within the immediately preceding 7 years, shall pay a fine of \$250.

(b) For the second offense within the immediately preceding 7 years, shall pay a fine of \$500.

(c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of \$1,000.

5. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130.

6. If a person is found guilty of a third or subsequent offense of subsection 1, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for 6 months. 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 6 months. 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.

7. The Department of Motor Vehicles:

(a) Shall not treat a first 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.

8. As used in this section, "handheld wireless communications device" means a handheld device for the transfer of information without the use of

electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device.

Sec. 2. NRS 484B.130 is hereby amended to read as follows:

484B.130 1. Except as otherwise provided in subsections 2 and 6, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603, 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, **or section 1 of this act**, that occurred:

(a) In an area designated as a temporary traffic control zone; and

(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,

➡ shall be punished by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

2. The additional penalty imposed pursuant to subsection 1 must not exceed a total of \$1,000, 6 months of imprisonment or 120 hours of community service.

3. Except as otherwise provided in subsection 5, a governmental entity that designates an area or authorizes the designation of an area as a temporary traffic control zone in which construction, maintenance or repair of a highway or other work is conducted, or the person with whom the governmental entity contracts to provide such service, shall cause to be erected:

(a) A sign located before the beginning of such an area stating "DOUBLE PENALTIES IN WORK ZONES" to indicate a double penalty may be imposed pursuant to this section;

(b) A sign to mark the beginning of the temporary traffic control zone; and

(c) A sign to mark the end of the temporary traffic control zone.

4. A person who otherwise would be subject to an additional penalty pursuant to this section is not relieved of any criminal liability because signs are not erected as required by subsection 3 if the violation results in injury to any person performing highway construction or maintenance or other work in

the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

5. The requirements of subsection 3 do not apply to an area designated as a temporary traffic control zone:

(a) Pursuant to an emergency which results from a natural or other disaster and which threatens the health, safety or welfare of the public; or

(b) On a public highway where the posted speed limit is 25 miles per hour or less and that provides access to or is appurtenant to a residential area.

6. A person who would otherwise be subject to an additional penalty pursuant to this section is not subject to an additional penalty if the violation occurred in a temporary traffic control zone for which signs are not erected pursuant to subsection 5, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

Sec. 3. NRS 707.375 is hereby amended to read as follows:

707.375 1. ~~Any~~ ***Except as otherwise provided in section 1 of this act,*** an agency, board, commission or political subdivision of this State, including, without limitation, any agency, board, commission or governing body of a local government, shall not regulate the use of a telephonic device by a person who is operating a motor vehicle.

2. As used in subsection 1, "telephonic device" means a cellular phone, satellite phone, portable phone or any other similar electronic device that is handheld and designed or used to communicate with ~~that~~ ***another*** person.

Senator Breeden moved the adoption of the amendment.

Remarks by Senators Breeden and Denis.

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

SENATOR BREEDEN:

Amendment No. 483 to Senate Bill No. 140 allows a person who is licensed as an amateur radio operator and who is providing communications services in connection with a disaster or emergency, participating in a drill, test or other exercise in preparation for a disaster or emergency or otherwise communicating public information to be exempt from the provisions of the bill that prohibit use of a handheld wireless communication device while driving.

This amendment also extends the same exemptions that we adopted in the Committee's amendment for members of search and rescue operations to the amateur radio operators.

SENATOR DENIS:

Is this the one where the short-wave radios used in emergencies are excluded?

SENATOR BREEDEN:

Yes, they are excluded, however, only when they are performing their essential duties.

SENATOR DENIS:

It includes drills also, not just an actual emergency?

SENATOR BREEDEN:

Correct.

SENATOR DENIS:

It does not include if they use their short-wave radio for other reasons.

SENATOR BREEDEN:

Correct.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 168.

Bill read second time.

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

Amendment No. 269.

"SUMMARY—Makes various changes concerning public health. (BDR 54-837)"

"AN ACT relating to public health; revising provisions governing access to certain medical records; requiring a physician or an osteopathic physician who performs an autopsy to submit a written report of the findings of the autopsy to the Board of Medical Examiners or the State Board of Osteopathic Medicine in certain circumstances; revising provisions governing the submission of certain reports concerning surgeries requiring conscious sedation, deep sedation or general anesthesia; revising provisions governing reports to the Board of Medical Examiners and the State Board of Osteopathic Medicine of a change in the privileges of ~~a physician, perfusionist, physician assistant or practitioner of respiratory~~ certain providers of health care; revising provisions governing the standard of proof in any disciplinary hearing before the Board ~~;~~ revising provisions governing access to and the data collected by the computerized program to track prescriptions of controlled substances developed by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety; increasing certain fees; of Medical Examiners; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides that if the health care records of a patient are located within this State, a provider of health care must make the records available for physical inspection within 5 working days after they are requested.

Section 2 of this bill requires a physician who performs an autopsy and who determines that the death of the decedent is the result of an overdose of a controlled substance or dangerous drug to submit a written report of such findings to the Board of Medical Examiners. **Section 2** also requires the Board, upon receipt of such a report, to investigate the death of the decedent to determine whether the conduct of any physician contributed to the death.

Section 18 of this bill imposes similar requirements concerning an autopsy performed by an osteopathic physician.

Existing law requires any hospital, clinic or other medical facility or medical society to report to the Board of Medical Examiners any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care while the person is under investigation and the outcome of any disciplinary action taken within 30 days after the change in privileges is made or disciplinary action is taken. **A hospital, clinic or other medical facility or medical society is also required to report such information to the State Board of Osteopathic Medicine concerning a change in the privileges of an osteopathic physician who is under investigation.** (NRS 630.307, ~~630.307~~, **633.533**) **Section 8 of this bill requires that such a report concerning a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care be made within 5 days after the change in privileges is made if the change in privileges is based on an investigation of the mental, medical or psychological competency of the person or suspected or alleged substance abuse by the person. Section 21 of this bill imposes similar reporting requirements concerning a change in the privileges of a physician assistant who is under investigation and a change in the privileges of an osteopathic physician or physician assistant if the change in privileges is based on an investigation of the mental, medical or psychological competency of the osteopathic physician or physician assistant or suspected or alleged substance abuse by the osteopathic physician or physician assistant.**

Section 10 of this bill provides that in any disciplinary hearing before the Board of Medical Examiners, a finding of the Board must be supported by a preponderance of the evidence.

~~† Section 17 of this bill requires that the computerized program to track prescriptions of controlled substances developed by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety be designed to provide information regarding data relating to the prescribing of controlled substances that is specific to a particular patient. Section 17 also requires the Board and the Division to monitor the prescription activity of prescribing practitioners and further provides that access to the information concerning particular patients must be restricted only to certain persons for the purpose of confirming the accuracy of the information after notice from the Board to a prescribing practitioner concerning the number of prescriptions written by the practitioner.†~~

Existing law requires persons who are licensed to practice medicine by the Board of Medical Examiners and persons who are licensed to practice osteopathic medicine by the State Board of Osteopathic Medicine to make certain reports concerning surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license and the occurrence of any sentinel events arising from those surgeries. Persons who are licensed to practice medicine are required to submit the reports to the Board of Medical Examiners and persons who are licensed to practice osteopathic medicine are required to submit the reports to the State Board of

Osteopathic Medicine. The boards are required to submit the reports to the Health Division of the Department of Health and Human Services which then reviews the reports. (NRS 449.447, 630.30665, 633.524) ~~Section 18 of this bill repeals the provision which requires the Board of Medical Examiners to collect and submit the reports, and section 12 of this bill instead requires persons who are licensed to practice medicine to submit the reports directly to the Health Division.~~

~~Section 5 of this bill increases the maximum amount of the fee that may be charged for the renewal of a limited, restricted, authorized facility or special license from \$400 to \$800.~~ **Section 7.5 of this bill revises these reporting requirements as they pertain to a physician and requires a physician to report the occurrence of any sentinel event arising from a surgery requiring conscious sedation, deep sedation or general anesthesia within 14 days after the occurrence of the sentinel event. Section 20 of this bill imposes a similar reporting requirement on an osteopathic physician.**

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

Section 1. NRS 629.061 is hereby amended to read as follows:

629.061 1. Each provider of health care shall make the health care records of a patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority;

(e) An investigator for the Attorney General or a grand jury investigating an alleged violation of NRS 200.495, 200.5091 to 200.50995, inclusive, or 422.540 to 422.570, inclusive;

(f) An investigator for the Attorney General investigating an alleged violation of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive, or any fraud in the administration of chapter 616A, 616B, 616C, 616D or 617 of NRS or in the provision of benefits for industrial insurance; or

(g) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

↪ The records must be made available at a place within the depository convenient for physical inspection . ~~[- and inspection must be permitted at all reasonable office hours and for a reasonable length of time.]~~ ***If the records are located within this State, the provider shall make any records requested pursuant to this section available for inspection within 5 working days after the request.*** If the records are located outside this State, the provider shall make any records requested pursuant to this section available in this State for inspection within 10 working days after the request.

2. Except as otherwise provided in subsection 3, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.

3. The provider of health care shall also furnish a copy of any records that are necessary to support a claim or appeal under any provision of the Social Security Act, 42 U.S.C. §§ 301 et seq., or under any federal or state financial needs-based benefit program, without charge, to a patient, or a representative with written authorization from the patient, who requests it, if the request is accompanied by documentation of the claim or appeal. A copying fee, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes, may be charged by the provider of health care for furnishing a second copy of the records to support the same claim or appeal. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy. The provider of health care shall furnish the copy of the records requested pursuant to this subsection within 30 days after the date of receipt of the request, and the provider of health care shall not deny the furnishing of a copy of the records pursuant to this subsection solely because the patient is unable to pay the fees established in this subsection.

4. Each person who owns or operates an ambulance in this State shall make the records regarding a sick or injured patient available for physical inspection by:

- (a) The patient or a representative with written authorization from the patient;
- (b) The personal representative of the estate of a deceased patient;
- (c) Any trustee of a living trust created by a deceased patient;
- (d) The parent or guardian of a deceased patient who died before reaching the age of majority; or
- (e) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

➡ The records must be made available at a place within the depository convenient for physical inspection, and inspection must be permitted at all reasonable office hours and for a reasonable length of time. The person who owns or operates an ambulance shall also furnish a copy of the records to each person described in this subsection who requests it and pays the actual cost of postage, if any, and the costs of making the copy, not to exceed 60 cents per page for photocopies. No administrative fee or additional service fee of any kind may be charged for furnishing a copy of the records.

5. Records made available to a representative or investigator must not be used at any public hearing unless:

(a) The patient named in the records has consented in writing to their use;
or

(b) Appropriate procedures are utilized to protect the identity of the patient from public disclosure.

6. Subsection 5 does not prohibit:

(a) A state licensing board from providing to a provider of health care or owner or operator of an ambulance against whom a complaint or written allegation has been filed, or to his or her attorney, information on the identity of a patient whose records may be used in a public hearing relating to the complaint or allegation, but the provider of health care or owner or operator of an ambulance and the attorney shall keep the information confidential.

(b) The Attorney General from using health care records in the course of a civil or criminal action against the patient or provider of health care.

7. A provider of health care or owner or operator of an ambulance and his or her agents and employees are immune from any civil action for any disclosures made in accordance with the provisions of this section or any consequential damages.

8. For the purposes of this section:

(a) "Guardian" means a person who has qualified as the guardian of a minor pursuant to testamentary or judicial appointment, but does not include a guardian ad litem.

(b) "Living trust" means an inter vivos trust created by a natural person:

(1) Which was revocable by the person during the lifetime of the person; and

(2) Who was one of the beneficiaries of the trust during the lifetime of the person.

(c) "Parent" means a natural or adoptive parent whose parental rights have not been terminated.

(d) "Personal representative" has the meaning ascribed to it in NRS 132.265.

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the findings of the autopsy, and provide to the Board any other information requested by the Board.

2. Upon receipt of a report submitted pursuant to subsection 1, the Board shall investigate the death of the decedent to determine whether the conduct of any physician contributed to the death of the decedent.

3. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.

Sec. 3. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

- (a) Enforce the provisions of this chapter;
- (b) Establish by regulation standards for licensure under this chapter;
- (c) Conduct examinations for licensure and establish a system of scoring for those examinations;
- (d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and
- (e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence; ~~and~~

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and ~~4~~ 6 of NRS 630.307 and NRS 690B.250 and 690B.260 ~~and~~ and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

↪ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 4. NRS 630.267 is hereby amended to read as follows:

630.267 1. Each holder of a license to practice medicine must, on or before July 1, ***or if July 1 is a Saturday, Sunday or legal holiday, on the next business day after July 1,*** of each ~~alternate~~ odd-numbered year:

(a) Submit a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him or her during the previous 2 years.

(b) Pay to the Secretary-Treasurer of the Board the applicable fee for biennial registration. This fee must be collected for the period for which a physician is licensed.

(c) Submit all information required to complete the biennial registration.

2. When a holder of a license fails to pay the fee for biennial registration and submit all information required to complete the biennial registration after they become due, his or her license to practice medicine in this State ~~is automatically suspended.~~ ***expires.*** The holder may, within 2 years after the date the license ~~is suspended.~~ ***expires,*** upon payment of twice the amount of

the current fee for biennial registration to the Secretary-Treasurer and submission of all information required to complete the biennial registration and after he or she is found to be in good standing and qualified under the provisions of this chapter, be reinstated to practice.

3. The Board shall make such reasonable attempts as are practicable to notify a licensee:

(a) At least once that the fee for biennial registration and all information required to complete the biennial registration are due; and

(b) That his or her license ~~is suspended~~ *has expired*.

➔ A copy of this notice must be sent to the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

Sec. 5. ~~NRS 630.268 is hereby amended to read as follows:~~

~~630.268 1. The Board shall charge and collect not more than the following fees:~~

~~For application for and issuance of a license to practice as a physician, including a license by endorsement~~	~~\$600~~
~~For application for and issuance of a temporary, locum tenens, limited, restricted, authorized facility, special, special purpose or special event license~~	~~400~~
~~For renewal of a limited, restricted, authorized facility or special license~~	~~[400] 800~~
~~For application for and issuance of a license as a physician assistant~~	~~400~~
~~For biennial registration of a physician assistant~~	~~800~~
~~For biennial registration of a physician~~	~~800~~
~~For application for and issuance of a license as a perfusionist or practitioner of respiratory care~~	~~400~~
~~For biennial renewal of a license as a perfusionist~~	~~600~~
~~For biennial registration of a practitioner of respiratory care~~	~~600~~
~~For biennial registration for a physician who is on inactive status ..~~	~~400~~
~~For written verification of licensure~~	~~50~~
~~For a duplicate identification card~~	~~25~~
~~For a duplicate license~~	~~50~~
~~For computer printouts or labels~~	~~500~~
~~For verification of a listing of physicians, per hour~~	~~20~~
~~For furnishing a list of new physicians~~	~~100~~

~~2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.~~

~~3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has~~

~~paid a cash deposit with the Board sufficient to defray all expenses of the meeting.~~ **(Deleted by amendment.)**

Sec. 6. NRS 630.2695 is hereby amended to read as follows:

630.2695 1. Each license issued pursuant to NRS 630.2694 expires on July 1 , *or if July 1 is a Saturday, Sunday or legal holiday, on the next business day after July 1*, of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to NRS 630.2691.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made ~~is automatically suspended and~~ may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to NRS 630.2692.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his or her license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 7. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation~~ **National Board** for Respiratory Care or its successor organization;

(d) Be certified by the ~~Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on~~

~~Accreditation]~~ **National Board** for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself or herself out as qualified to practice respiratory care,
 ➔ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 7.5. NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit ~~annually~~ to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report ~~annually~~ to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2 ~~whether~~ :

(a) At the time the holder of a license renews his or her license; and

(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 9 of NRS 630.306.

4. **In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.**

5. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 ~~and 2~~, **2 and 4;**

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection ~~15-1.6~~.

~~15-1.6~~. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, ~~10-1.2~~ or 4 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~16-1.7~~. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~17-1.8~~. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

~~18-1.9~~. As used in this section:

- (a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.
- (b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.
- (c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.
- (d) "Health Division" has the meaning ascribed to it in NRS 449.009.
- (e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 8. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine, perfusion or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. ~~Any~~ ***Except as otherwise provided in subsection 4, any*** hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice while the physician, perfusionist, physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, perfusionist, physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, perfusionist, physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken.

4. A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice that is based on:

(a) An investigation of the mental, medical or psychological competency of the physician, perfusionist, physician assistant or practitioner of respiratory care; or

(b) Suspected or alleged substance abuse in any form by the physician, perfusionist, physician assistant or practitioner of respiratory care.

5. The Board shall report any failure to comply with ~~this~~ subsection 3 or 4 by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than \$10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~4.~~ 6. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, perfusionist, physician assistant or practitioner of respiratory care:

- (a) Is mentally ill;
 - (b) Is mentally incompetent;
 - (c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;
 - (d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or
 - (e) Is liable for damages for malpractice or negligence,
- ↪ within 45 days after such a finding, judgment or determination is made.

~~{5-}~~ 7. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~{4-}~~.

~~6-}~~ 6.

8. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 9. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, perfusionist, physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, perfusionist, physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine, perfusion or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine, perfusion or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The **formal** complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the

board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 10. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because the witness was or is incompetent. ~~[Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.]~~

2. *A finding of the Board must be supported by a preponderance of the evidence.*

3. Proof of actual injury need not be established.

~~[3.]~~ 4. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine, perfusion or respiratory care is conclusive evidence of its occurrence.

Sec. 11. ~~[NRS 630.373 is hereby amended to read as follows:~~

~~630.373 1. A physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:~~

~~(a) In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive [;], and section 12 of this act;~~

~~(b) In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive [;], and section 12 of this act;~~

~~(c) In a medical facility as that term is defined in NRS 449.0151; or~~

~~(d) Outside of this State.~~

~~2. As used in this section:~~

~~(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.~~

~~(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.~~

~~(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.]~~

(Deleted by amendment.)

Sec. 12. ~~[Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Each person who is licensed to practice medicine pursuant to chapter 630 of NRS shall submit annually to the Health Division, on a form provided by the Health Division, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the person at his or her office or any other facility, excluding any surgical care performed:~~

~~(a) At a medical facility; or~~

~~(b) Outside of this State.~~

~~2. In addition to the report required pursuant to subsection 1, each person who is licensed to practice medicine pursuant to chapter 630 of NRS shall submit annually to the Health Division a report concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board for reporting information pursuant to NRS 439.835.~~

~~3. Each person who is licensed to practice medicine pursuant to chapter 630 of NRS shall submit the reports required pursuant to subsections 1 and 2 whether or not the person performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for the Board of Medical Examiners to initiate disciplinary action pursuant to subsection 9 of NRS 630.306.~~

~~4. The Health Division shall:~~

~~(a) Collect and maintain the reports received pursuant to subsections 1 and 2;~~

~~(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and~~

~~(c) Maintain the confidentiality of such reports in accordance with subsection 5.~~

~~5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.~~

~~6. On or before February 15 of each odd numbered year, the Health Division shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report of the information reported to the Health Division during the previous biennium pursuant to this section, including, without limitation, the number and types of surgeries performed by each person who is licensed to practice medicine pursuant to chapter 630 of NRS and the occurrence of sentinel events arising from such surgeries, if any. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.~~

~~7. In addition to any other remedy or penalty, if a person who is licensed to practice medicine pursuant to chapter 630 of NRS fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Health Division may, after providing the person with notice and opportunity for a hearing, impose against the person an administrative penalty for each such violation. The Health Division shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the person pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.~~

~~8. As used in this section, "sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.~~ **(Deleted by amendment.)**

Sec. 13. ~~NRS 449.435 is hereby amended to read as follows:~~
~~449.435 As used in NRS 449.435 to 449.448, inclusive, and section 12 of this act, unless the context otherwise requires, the words and terms defined in NRS 449.436 to 449.439, inclusive, have the meanings ascribed to them in those sections.~~ **(Deleted by amendment.)**

Sec. 14. ~~NRS 449.441 is hereby amended to read as follows:~~
~~449.441 The provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act do not apply to a person who is licensed to practice medicine pursuant to chapter 630 of NRS or to an office of a physician or a facility that provides health care, other than a medical facility, if the person or the office of a physician or the facility only administers a medication to a patient to relieve the patient's anxiety or pain and if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.~~ **(Deleted by amendment.)**

Sec. 15. ~~NRS 449.447 is hereby amended to read as follows:~~
~~449.447 1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.448, may take any of the following actions:~~

~~(a) Decline to issue or renew a permit;~~
~~(b) Suspend or revoke a permit; or~~
~~(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum.~~

~~2. The Health Division may review a report submitted pursuant to NRS [630.30665 or] 633.524 or section 12 of this act to determine whether an office of a physician or a facility is in violation of the provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act or the regulations adopted pursuant thereto. If the Health Division determines that such a violation has occurred, the Health Division shall immediately notify the appropriate professional licensing board of the physician.~~

~~3. If a surgical center for ambulatory patients violates the provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division may impose administrative sanctions pursuant to NRS 449.163.~~ **(Deleted by amendment.)**

Sec. 16. ~~[NRS 449.448 is hereby amended to read as follows:~~

~~449.448 1. The Board shall adopt regulations to carry out the provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act, including, without limitation, regulations which:~~

~~(a) Prescribe the amount of the fee required for applications for the issuance and renewal of a permit pursuant to NRS 449.443 and 449.444.~~

~~(b) Prescribe the procedures and standards for the issuance and renewal of a permit.~~

~~(c) Identify the nationally recognized organizations approved by the Board for the purposes of the accreditation required for the issuance of a:~~

~~(1) License to operate a surgical center for ambulatory patients;~~

~~(2) Permit for an office of a physician or a facility that provides health care, other than a medical facility, to offer to a patient a service of general anesthesia, conscious sedation or deep sedation;~~

~~(d) Prescribe the procedures and scope of the inspections conducted by the Health Division pursuant to NRS 449.446.~~

~~(e) Prescribe the procedures and time frame for correcting each deficiency indicated in a report pursuant to NRS 449.446.~~

~~(f) Prescribe the criteria for the imposition of each sanction prescribed by NRS 449.447, including, without limitation:~~

~~(1) Setting forth the circumstances and manner in which a sanction applies;~~

~~(2) Minimizing the time between the identification of a violation and the imposition of a sanction; and~~

~~(3) Providing for the imposition of incrementally more severe sanctions for repeated or uncorrected violations.~~

~~2. The regulations adopted pursuant to this section must require that the practices and policies of each holder of a permit to offer to a patient a service of general anesthesia, conscious sedation or deep sedation and each holder of a license to operate a surgical center for ambulatory patients provide adequately for the protection of the health, safety and well being of patients.]~~

(Deleted by amendment.)

Sec. 17. ~~[NRS 453.1545 is hereby amended to read as follows:~~

~~453.1545 1. The Board and the Division shall cooperatively develop a computerized program to track each prescription for a controlled substance listed in schedule II, III or IV that is filled by a pharmacy that is registered with the Board or that is dispensed by a practitioner who is registered with the Board. The program must:~~

~~(a) Be designed to provide information regarding:~~

~~(1) The inappropriate use by a patient of controlled substances listed in schedules II, III and IV to pharmacies, practitioners and appropriate state agencies to prevent the improper or illegal use of those controlled substances; [and]~~

~~(2) Statistical data relating to the use of those controlled substances that is not specific to a particular patient[.]; and~~

~~(3) Data relating to the prescribing of controlled substances that is specific to a particular patient, access to which is restricted only to those persons authorized to access such information for the purposes set forth in subsections 4 and 5.~~

~~(b) Be administered by the Board, the Division, the Health Division of the Department and various practitioners, representatives of professional associations for practitioners, representatives of occupational licensing boards and prosecuting attorneys selected by the Board and the Division.~~

~~(c) Not infringe on the legal use of a controlled substance for the management of severe or intractable pain.~~

~~(d) Include the contact information of each person who elects to access the database of the program pursuant to subsection 2, including, without limitation:~~

~~(1) The name of the person;~~

~~(2) The physical address of the person;~~

~~(3) The telephone number of the person; and~~

~~(4) If the person maintains an electronic mail address, the electronic mail address of the person.~~

~~2. The Board shall provide Internet access to the database of the program established pursuant to subsection 1 to each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III or IV who:~~

~~(a) Elects to access the database of the program; and~~

~~(b) Completes the course of instruction described in subsection [6.] 8.~~

~~3. A practitioner who is provided with Internet access pursuant to subsection 2 must, for the purposes of complying with the provisions of subsection 5, be provided access to information specific to the prescriptions written by the practitioner, including, without limitation, the name of each patient for whom the practitioner has written a prescription and, for each such patient:~~

~~(a) The date on which the prescription was written by the practitioner;~~

~~(b) The name, dosage and amount of the controlled substance prescribed by the practitioner; and~~

~~(c) The number of refills authorized and filled for the controlled substance prescribed by the practitioner.~~

~~4. The Board and the Division must have access to the program established pursuant to subsection 1 to identify any suspected fraudulent or illegal activity related to the dispensing of controlled substances.~~

~~[4.] 5. The Board and the Division shall access the program established pursuant to subsection 1 to monitor the prescription activity of practitioners authorized to write prescriptions for controlled substances listed in schedule II, III or IV, and to tabulate and compare the number of prescriptions written monthly by each practitioner in a particular medical specialty or other category established by the Board for this purpose. When the number of prescriptions written in a month by any practitioner exceeds the monthly~~

~~average of 95 percent of the other practitioners in that specialty or category; the Board shall notify the practitioner in writing and via electronic mail, if available. Within 10 days after receiving notice from the Board, the practitioner shall:~~

~~(a) Review the information described in subsection 3 to determine the accuracy of the information; and~~

~~(b) Submit written notice to the Board, on a form approved by the Board, of the accuracy of the information or identifying any inaccuracies in the information.~~

~~6. The Board or the Division shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with the relevant information obtained from the program for further investigation.~~

~~{5.} 7. Information obtained from the program relating to a practitioner or a patient is confidential and, except as otherwise provided by this section and NRS 239.0115, must not be disclosed to any person. That information must be disclosed:~~

~~(a) Upon the request of a person about whom the information requested concerns or upon the request on behalf of that person by his or her attorney; or~~

~~(b) Upon the lawful order of a court of competent jurisdiction.~~

~~{6.} 8. The Board and the Division shall cooperatively develop a course of training for persons who elect to access the database of the program pursuant to subsection 2 and require each such person to complete the course of training before the person is provided with Internet access to the database pursuant to subsection 2.~~

~~{7.} 9. The Board and the Division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section. (Deleted by amendment.)~~

Sec. 18. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any osteopathic physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the findings of the autopsy, and provide to the Board any other information requested by the Board.

2. Upon receipt of a report submitted pursuant to subsection 1, the Board shall investigate the death of the decedent to determine whether the conduct of any osteopathic physician contributed to the death of the decedent.

3. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.

Sec. 19. NRS 633.286 is hereby amended to read as follows:

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 3 and ~~4~~ 6 of NRS 633.533 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

Sec. 20. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit ~~(annually)~~ to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report ~~(annually)~~ to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the reports required pursuant to subsections 1 and 2 ~~(whether)~~ :

(a) At the time the holder of the license renews his or her license; and

(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.

4. **In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice osteopathic medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within**

14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.

5. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 ~~and 2~~, **2 and 4;**

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection ~~5~~ **6.**

~~5~~ **6.** Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, ~~or 2~~ **or 4** is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~6~~ **7.** The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~7~~ **8.** In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

~~8~~ **9.** As used in this section:

- (a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.
- (b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.
- (c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.
- (d) "Health Division" has the meaning ascribed to it in NRS 449.009.
- (e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 21. NRS 633.533 is hereby amended to read as follows:

633.533 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against an osteopathic physician **or physician assistant** on a form provided by the Board. The form may be

submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing osteopathic medicine in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. ~~Any~~ Except as otherwise provided in subsection 4, any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~an osteopathic physician's~~ the privileges of an osteopathic physician or physician assistant to practice ~~osteopathic medicine~~ while the osteopathic physician or physician assistant is under investigation and the outcome of any disciplinary action taken by that facility or society against the osteopathic physician or physician assistant concerning the care of a patient or the competency of the osteopathic physician or physician assistant within 30 days after the change in privileges is made or disciplinary action is taken.

4. A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of an osteopathic physician or physician assistant that is based on:

(a) An investigation of the mental, medical or psychological competency of the osteopathic physician or physician assistant; or

(b) Suspected or alleged substance abuse in any form by the osteopathic physician or physician assistant.

5. The Board shall report any failure to comply with ~~this~~ subsection 3 or 4 by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than \$10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~4-1~~ 6. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that an osteopathic physician or physician assistant:

- (a) Is a person with mental illness;
- (b) Is a person with mental incompetence;
- (c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,
 ↪ within 45 days after such a finding, judgment or determination is made.

~~§ 7.~~ On or before January 15 of each year, the clerk of every court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding osteopathic physicians pursuant to paragraph (e) of subsection ~~4~~ 6.

~~§ 18.~~ *Sec. 22.* ~~§ NRS 630.30665 is hereby repealed.~~

TEXT OF REPEALED SECTION

~~630.30665 Physician required to report certain information concerning surgeries; effect of failure to report; duties of Board; confidentiality of report; applicability.~~

~~1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:~~

- ~~(a) At a medical facility as that term is defined in NRS 449.0151; or~~
- ~~(b) Outside of this State.~~

~~2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.~~

~~3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2 whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 9 of NRS 630.306.~~

~~4. The Board shall:~~

~~(a) Collect and maintain reports received pursuant to subsections 1 and 2;~~

~~(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and~~

~~(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 5.~~

~~5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.~~

~~6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.~~

~~7. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.~~

~~8. As used in this section:~~

~~(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.~~

~~(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.~~

~~(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.~~

~~(d) "Health Division" has the meaning ascribed to it in NRS 449.009.~~

~~(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.~~

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 269 to Senate Bill No. 168 limits the manner in which a physician may offer a patient a service of general anesthesia, conscious sedation or deep sedation.

It also requires practitioners to submit a report to the licensing board regarding any sentinel event involving certain types of sedation within 14 days of the occurrence and when the licensee biennially renews their license.

It deletes a provision increasing the fee for certain special licenses. It also deletes the sections requiring reporting to the Health Division regarding surgeries involving sedation or sentinel events.

Finally, the amendment requires a hospital, clinic, medical facility or society, to report to the Osteopathic Board within five days any change in privileges of an osteopathic physician or

physician assistant, based on an investigation of mental, medical or psychological competence or suspected or alleged substance abuse.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 212.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 294.

"SUMMARY—Revises provisions governing charter schools. (BDR 34-900)"

"AN ACT relating to education; revising provisions relating to sponsorship of charter schools; creating the State ~~Board of Charter Schools;~~ **Public Charter School Authority;** prescribing the membership, duties and powers of the State ~~Board of Charter Schools;~~ **Public Charter School Authority;** repealing the Subcommittee on Charter Schools of the State Board of Education; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the formation of charter schools and authorizes school districts, the State Board of Education and colleges and universities within the Nevada System of Higher Education to sponsor charter schools. (NRS 386.500-386.610) **Sections 25-35.5** of this bill create the State ~~Board of Charter Schools;~~ **Public Charter School Authority** and prescribe the membership of the State ~~Board of Charter Schools;~~ **Public Charter School Authority.** **Section 38** of this bill removes the authority of the State Board of Education to sponsor charter schools and authorizes the State ~~Board of Charter Schools;~~ **Public Charter School Authority** to sponsor charter schools. **Sections 43 and 49** of this bill authorize the State ~~Board of Charter Schools;~~ **Public Charter School Authority** to adopt certain regulations relating to charter schools and eliminate the authority of the Department of Education and the State Board of Education to adopt certain regulations relating to charter schools. **Section 2** of this bill transfers the duty to prepare an annual report of accountability information of ~~all the~~ **each** charter ~~schools;~~ **school** in this State from the board of trustees of a school district to the ~~State Board of Charter Schools;~~ **sponsor of that charter school.** **Sections 59 and 60** of this bill require the Director of the State ~~Board of Charter Schools;~~ **Public Charter School Authority** and other persons employed by the State ~~Board of Charter Schools;~~ **Public Charter School Authority** to be appointed or hired, as appropriate. **Section 61** of this bill requires the members of the State ~~Board of Charter Schools;~~ **Public Charter School Authority** to be appointed. **Section 64** of this bill transfers the sponsorship of all charter schools sponsored by the State Board of Education to the State ~~Board of Charter Schools;~~ **Public Charter School Authority.**

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

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

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

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

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

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

3. Increase the opportunities for learning for all pupils;

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

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

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

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

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

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

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

385.005 1. The Legislature reaffirms its intent that public education in the State of Nevada is essentially a matter for local control by local school districts. The provisions of this title are intended to reserve to the boards of trustees of local school districts within this state such rights and powers as are necessary to maintain control of the education of the children within their

respective districts. These rights and powers may only be limited by other specific provisions of law.

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

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

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

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

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

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

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

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

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

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

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

(10) Information on whether each school in the district , including, without limitation, each charter school ~~that~~ sponsored by the district, has made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

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

prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

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

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

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

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

(5) For each elementary school:

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

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

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

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

(1) ~~Any~~ **any** special programs for pupils at an individual school ~~that~~ **and**

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

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

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

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

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

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

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

(3) Withdraw from school to attend another school.

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) For each high school in the district, including, without limitation, each charter school ~~that~~ sponsored by the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or

mathematics at a university, state college or community college within the Nevada System of Higher Education.

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

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

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

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

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

(2) An adjusted diploma.

(3) A certificate of attendance.

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

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

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

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. ~~The State [Board of Charter Schools]~~ **Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall, on or before August 15 of each year, prepare an annual report of accountability of the charter schools ~~in this State~~ sponsored by the State Public Charter School Authority or institution, as applicable, concerning the accountability information prescribed by the Department pursuant to this section. The Department , in consultation with the State Public Charter School**

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

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

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

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

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

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

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

~~5.~~ 6. The Superintendent of Public Instruction shall:

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

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

(c) Consult with a representative of the:

- (1) Nevada State Education Association;
- (2) Nevada Association of School Boards;
- (3) Nevada Association of School Administrators;
- (4) Nevada Parent Teacher Association;

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

(6) Legislative Counsel Bureau ~~;~~ and

(7) Charter School Association of Nevada,

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

~~6.7~~ 7. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

~~7.7~~ 8. On or before August 15 of each year ~~the~~ :

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

~~8.7~~ (b) ~~The State Board of Charter Schools~~ **Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in each the charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3.**

9. On or before August 15 of each year ~~the~~ :

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

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

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

(b) ~~Provide~~ **The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide** for public dissemination of the annual report of accountability prepared pursuant to subsection 2 *or 3, as applicable*, in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, ~~for the State Board of Charter~~

~~Schools,~~ Public Charter School Authority or the institution, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school ~~in~~ sponsored by the district, the residents of the district ~~and the parents and guardians of pupils enrolled in schools in the district ~~for~~~~ including, without limitation, each charter school ~~in~~ sponsored by the district.

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

10. Upon the request of the Governor, an entity described in paragraph (a) of subsection ~~18~~ 9 or a member of the general public, the board of trustees of a school district, ~~for the State ~~Board of Charter Schools~~ Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable,~~ shall provide a portion or portions of the report required pursuant to subsection 2 ~~for~~

~~10.} or 3, as applicable.~~

11. As used in this section:

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

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

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

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

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

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

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

~~for~~ (d) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

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

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

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

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

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

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

(6) Schools within the school district ~~or~~ **or charter schools, as applicable.**

(b) Provide for the public dissemination of the summary *of the school district*, ~~for~~ the State ~~Board of Charter Schools~~ **Public Charter School Authority or the college or university, as applicable**, by posting a copy of the summary on the Internet website maintained by the school district, ~~for~~ the State ~~Board of Charter Schools~~ **Public Charter School Authority or institution**, if any. If a school district, ~~for~~ the State ~~Board of Charter Schools~~ **Public Charter School Authority or an institution** does not maintain a website, the district, ~~for~~ the State ~~Board of Charter Schools~~ **Public Charter School Authority or institution, as applicable**, shall otherwise provide for public dissemination of the summary. The board of trustees of each school district, ~~and~~ the State ~~Board of Charter Schools~~ **Public Charter School Authority or an institution** shall ensure that the parents and guardians of pupils enrolled in the school district **or each charter school, as applicable**, have sufficient information concerning the availability

of the summary, including, without limitation, information that describes how to access the summary on the Internet website maintained by the school district, ~~for the State Board of Charter Schools,~~ **Public Charter School Authority or the institution,** if any. Upon the request of a parent or legal guardian, the school district, ~~for the State Board of Charter Schools,~~ **Public Charter School Authority or an institution, as applicable,** shall provide the parent or legal guardian with a written copy of the summary.

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) The curriculum appropriate to improve achievement;

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

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

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

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

(4) Manage effectively the discipline of pupils; and

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

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

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

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

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

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

(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that

statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by the school district in which the school is located in complying with this paragraph.

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

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

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

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

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

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

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

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

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

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

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of

20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

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

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

- (a) Superintendent of Public Instruction;
- (b) Governor;
- (c) State Board;
- (d) Department;
- (e) Committee;
- (f) Bureau; and
- (g) Board of trustees of the school district in which the school is located

~~or, if the school is a charter school, the sponsor of the charter school~~
and the governing body of the charter school.

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

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

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

- (a) The information set forth in subsection 1 of NRS 385.34692, reported only for the school;
- (b) Information on the involvement of parents and legal guardians in the education of their children; and
- (c) Such other information as is directed by the Superintendent of Public Instruction in consultation with the Bureau.

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

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

4. On or before September 7 of each year:

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

(1) Department;

(2) Bureau; and

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

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

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

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

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

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

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

(1) Annual report of accountability prepared by:

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

(II) The board of trustees of each school district pursuant to subsection 2 of NRS 385.347 ~~or~~; and

(III) ***The State ~~[Board of Charter Schools]~~ **Public Charter School Authority and each college or university within the Nevada System of*****

Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347.

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

(I) The State Board pursuant to NRS 385.34691;

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

(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any, or if such a plan has not been prepared, the turnaround plan for the schools identified by the Bureau, if any, implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, as applicable.

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

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

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

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

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

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

↪ whichever is applicable for the school.

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

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

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

designated as demonstrating need for improvement pursuant to NRS 385.3623; and

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

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

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

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

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

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

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

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

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

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

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

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

recommendations for revisions to the turnaround plan for the school implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, whichever is applicable for the school. The written revisions or recommendations, as applicable, must:

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

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

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

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

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

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

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

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

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

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

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

(1) Submit the progress report to the Department.

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

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

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

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

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

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

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

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

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

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

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

(1) The name of the program;

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

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

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

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

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

(1) The financial resources of the school;

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

(3) The curriculum of the school;

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

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

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

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

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

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

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

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

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

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

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

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

(a) Principal of the school;

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

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

(d) Department; and

(e) Bureau.

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

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

(a) Principal of the charter school;

(b) Sponsor of the charter school;

(c) Governing body of the charter school;

(d) Department; and

~~[(d)]~~ *(e) Bureau.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. As used in this section:

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

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

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

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

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

(b) ~~For a charter school sponsored by the State Board of Charter Schools,~~ **Public Charter School Authority,** ~~the State Board of Charter Schools,~~ **Public Charter School Authority shall ensure, in conjunction with the governing body of the charter school, that the charter school receives**

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

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

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

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

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

2. Before making a final designation for a school, the board of trustees of the school district or the Department, as applicable, shall provide the school an opportunity to review the data upon which the preliminary designation is based and to present evidence in the manner set forth in 20 U.S.C. § 6316(b)(2) and the regulations adopted pursuant thereto. If the school is a public school of the school district or a charter school sponsored by the board of trustees, the board of trustees of the school district shall, in consultation with the Department, make a final determination concerning the designation for the school on August 1. If the school is a charter school sponsored by the State ~~Board of Charter Schools~~ **Public Charter School Authority** or by a college or university within the Nevada System of Higher Education, the Department shall make a final determination concerning the designation for the school on August 1.

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

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

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

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

- (1) Superintendent of schools of the school district; and
- (2) Board of trustees of the school district.

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

(d) The determination and final designation made for each charter school ~~sponsored by the State Board of Charter Schools to the State Board of Charter Schools~~ to the sponsor of the charter school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance

in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

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

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

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

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

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

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

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

(b) If the school is a charter school:

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

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

(3) Sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the ~~charter school is located,~~ pupil resides to provide school choice to the

~~parents and guardians of pupils~~ parent or guardian of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If the school is a charter school:

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

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

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

(2) *Sponsored by the State ~~[Board of Charter Schools, the State Board of Charter Schools]~~ Public Charter School Authority, the State Public Charter School Authority shall:*

(I) Work cooperatively with the board of trustees of the school district in which the ~~charter school is located~~ pupil resides to provide school choice to the ~~parents and guardians of pupils~~ parent or guardian

of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The State Board shall prescribe by regulation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(IV) A timeline for the completion of the turnaround plan, which must provide for implementation of the plan in accordance with

NRS 385.37603 if the school is designated as needing improvement for 5 years; and

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

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

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

- (a) Superintendent of Public Instruction;
- (b) Department;
- (c) Bureau;
- (d) Board of trustees of the school district in which the school is located ~~or, if the school is a charter school, the sponsor of the charter school and the governing body of the charter school;~~ and
- (e) Principal of the school.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) **Sponsored by the State ~~Board of Charter Schools, the State Board of Charter Schools~~ Public Charter School Authority, the State Public Charter School Authority shall:**

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The board of trustees of a school district shall grant a delay from the development of a plan for restructuring for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the board of trustees shall immediately develop and proceed with the implementation of the plan for restructuring the school as if the delay never occurred.

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

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

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau;

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

~~††~~ **or, if the school is a charter school, the sponsor of the charter school and the governing body of the charter school;** and

(e) Principal of the school.

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

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

consequences or sanctions, or any combination thereof, as prescribed by the State Board pursuant to NRS 385.361.

2. The ~~State Board of Charter Schools,~~ **Public Charter School Authority,** the Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action, consequences or sanctions, or any combination thereof, pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, ~~the State Board of Charter Schools,~~ **Public Charter School Authority,** the Department or the board of trustees, as applicable, may proceed with corrective action, consequences or sanctions, or any combination thereof, for the school, as appropriate, pursuant to the provisions of NRS 385.37603 and 385.37605 as if the delay never occurred.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b)~~ (c) The board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

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

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

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

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

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

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

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

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

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

(1) Except as otherwise provided in subsection 2, repeal the plan to improve the academic achievement of pupils developed pursuant to

NRS 385.357 and, not later than September 30, implement the plan for restructuring the school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

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

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

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

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

(b) If the school is a charter school:

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

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

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

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

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

(2) **Sponsored by the State ~~Board of Charter Schools, the State Board of Charter Schools~~ Public Charter School Authority, the State Public Charter School Authority shall:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

385.620 The Advisory Council shall:

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

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

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

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

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

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

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

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

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

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

Sec. 25. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 to ~~35.1~~ **35.5**, inclusive, of this act.

Sec. 26. *As used in NRS 386.500 to 386.610, inclusive, and sections 26 to ~~35.1~~ **35.5**, inclusive, of this act, the words and terms defined in NRS 386.500 and sections 27 and 28 of this act have the meanings ascribed to them in those sections.*

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

Sec. 28. *"State ~~Board of Charter Schools~~ **Public Charter School Authority**" means the State ~~Board of Charter Schools~~ **Public Charter School Authority** created by section ~~29.1~~ **28.5** of this act.*

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

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

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

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

Sec. 29. *1. The State ~~Board of Charter Schools, consisting of~~ **Public Charter School Authority** consists of seven members. ~~It is hereby created.~~ The membership of the State ~~Board of Charter Schools~~ **Public Charter School Authority** consists of:*

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

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

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

(d) One member appointed by an association of charter schools pursuant to subsection 3.

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

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

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

(c) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance ~~and~~ or accounting, or both;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology; and

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

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

3. The State ~~Board of Charter Schools~~ Public Charter School Authority shall establish a list of associations of charter schools ~~that operate within this State~~ operating in this State which the State Board recognizes as representing the charter schools in this State and designate the order in which such associations may appoint a member to the State ~~Board of Charter Schools~~ Public Charter School Authority. Except as otherwise provided in subsection 5, an association may not appoint more than one member to the State ~~Board of Charter Schools~~ Public Charter School Authority unless each association designated pursuant to this subsection has had an opportunity to make an appointment.

4. Each member of the State ~~Board of Charter Schools~~ Public Charter School Authority must be a resident of this State.

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

6. The members of the State ~~Board of Charter Schools~~ Public Charter School Authority shall select a Chair and Vice Chair from among its

members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

7. Each member of the State ~~{Board of Charter Schools}~~ Public Charter School Authority is entitled to receive:

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

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

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

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

Sec. 31. 1. The State ~~{Board of Charter Schools}~~ Public Charter School Authority shall appoint a Director of the State ~~{Board of Charter Schools}~~ Public Charter School Authority for a term of 3 years. The State ~~{Board of Charter Schools may remove the Director from office for inefficiency, neglect of duty, malfeasance in office or for other just cause.}~~ Public Charter School Authority shall ensure that the Director has a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State.

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

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

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

Sec. 33. The Director shall:

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

2. Organize the State ~~{Board of Charter Schools}~~ Public Charter School Authority in a manner which will ~~assure~~ ensure the efficient operation and service of the State ~~{Board of Charter Schools}~~ Public Charter School Authority;

3. Serve as the Executive Secretary of the State ~~{Board of Charter Schools}~~ Public Charter School Authority; ~~and~~

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

5. Perform such other duties as are prescribed by law or the State ~~{Board of Charter Schools}~~ Public Charter School Authority.

Sec. 34. The State ~~{Board of Charter Schools}~~ Public Charter School Authority may employ such persons as it deems necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to ~~{35}~~ 35.5, inclusive, of this act. The staff employed by the State Public Charter School Authority must be qualified to carry out the daily responsibilities of sponsoring charter schools in accordance with the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to 35.5, inclusive, of this act.

Sec. 35. 1. The Account for the State ~~{Board of Charter Schools}~~ Public Charter School Authority is hereby created in the State General Fund, to be administered by the Director.

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

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

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

5. The Director and the State Public Charter School Authority may accept gifts, grants and bequests to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to ~~{35}~~ 35.5, inclusive, of this act. Any money from gifts, grants and bequests must be deposited in the Account and may be expended in accordance with the terms and conditions of the gift, grant or bequest, or in accordance with this section.

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

2. If a service agreement is entered into pursuant to this section, the sponsor of the charter school shall, not later than August 1 after the completion of the school year, provide to the governing body of the charter

school an itemized accounting of the actual costs of those services purchased by the charter school. Any difference between the amount paid by the charter school pursuant to the service agreement and the actual cost for those services must be reconciled and paid to the party to whom it is due. If the governing body or the sponsor disputes the amount due, the party making the dispute may request an independent review by the Department, whose determination is final.

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

Sec. 35.5. 1. The State Public Charter School Authority is hereby deemed a local educational agency for the purpose of directing the proportionate share of any money available from federal and state categorical grant programs to charter schools which are sponsored by the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that are eligible to receive such money. A charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.

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

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

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

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

Sec. 37. ~~{NRS 386.508 is hereby amended to read as follows:~~

~~386.508 There is hereby created a school district to be designated as the Charter School District for State [Board Sponsored] Board of Charter Schools Sponsored Charter Schools and Nevada System of Higher Education Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the State Board of Charter Schools or sponsored by a college or university within the Nevada System of Higher Education. The State Board of Charter Schools is hereby deemed the Board of Trustees of the School District. The School District is created for the sole purpose of providing local educational agency status to the School~~

~~District for purposes of federal law governing charter schools.] (Deleted by amendment.)~~

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

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

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

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

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

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

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

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

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

(e) Monitoring, in accordance with NRS 386.500 to 386.610, inclusive, and sections 26 to 35.5, inclusive, of this act, and in accordance with the terms and conditions of the applicable written charter, the performance and compliance of each charter school sponsored by the entity; and

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

5. Each sponsor of a charter school shall develop policies and practices that are consistent with state laws and regulations governing charter schools. In developing the policies and practices, the sponsor shall review and evaluate nationally recognized policies and practices for sponsoring

organizations of charter schools. The policies and practices must include, without limitation:

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

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

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

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

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

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

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

- (a) Members of the general public;
- (b) Representatives of nonprofit organizations and businesses; or
- (c) Representatives of a college or university within the Nevada System of Higher Education.

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

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

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive ~~††~~ , and sections 26 to 35.5, inclusive, of this act.

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

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

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

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

(4) Establishing accountability and transparency of public schools;

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

(6) Creating new professional opportunities for teachers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. If the board of trustees of a school district ~~or~~ *or* a college or a university ~~within the Nevada System of Higher Education,~~ as applicable, receives an application to form a charter school, the board of trustees or the

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

(a) Complies with NRS 386.500 to 386.610, inclusive, **and sections 26 to ~~35,~~ 35.5, inclusive, of this act** and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the ~~Department,~~ ~~State Board of Charter Schools,~~

~~2,~~ **State Public Charter School Authority.**

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

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

~~4,~~ **5.** If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection ~~3,~~ **4,** the applicant may submit a written request for sponsorship by the State ~~Board,~~ ~~to the Subcommittee on~~ ~~of Charter Schools created pursuant to~~ ~~NRS 386.507,~~ ~~section 29 of this act,~~ **Public Charter School Authority** not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

~~5,~~ **6.** If the ~~Subcommittee on~~ ~~State Board of Charter Schools,~~ **Public Charter School Authority** receives an application pursuant to subsection 1 or ~~4,~~ **5,** it shall hold a meeting to consider the application. **If the State Public Charter School Authority requested that the Department review the application pursuant to NRS 386.520, the State Public Charter School Authority shall be deemed to receive the application pursuant to this subsection upon transmittal of the application from the Department.** The

meeting must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~{Subcommittee}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection ~~1.1~~ 1. ~~{The Subcommittee may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.}~~

~~6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1.1~~ 2. The Department shall assist the State Public Charter School Authority in the review of an application. The State ~~{Board of Charter Schools}~~ Public Charter School Authority may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection ~~1.1~~ 2. Not more than 30 days after the meeting, the State ~~{Board of Charter Schools}~~ Public Charter School Authority shall provide written notice of its determination to the applicant.

3. ~~6.7~~ If the State ~~{Board of Charter Schools}~~ Public Charter School Authority denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

8. ~~7.7~~ If the State ~~{Board of Charter Schools}~~ Public Charter School Authority denies an application after it has been resubmitted pursuant to subsection 3, ~~6.7~~ the applicant may, not more than 30 days after the receipt of the written notice from the State ~~{Board}~~ Public Charter School Authority, appeal the final determination to the district court of the county in which the proposed charter school will be located.

9. ~~8.7~~ On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

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

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

(c) The current status of the application; and

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

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

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

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

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

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

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

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

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

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

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

(b) Objective criteria for the conditions under which such a request may be granted. ~~[If the request is for sponsorship by the State Board of Charter Schools, the governing body must not be required to submit an application and the State Board of Charter Schools shall accept the transfer of the charter school to the State Board of Charter Schools.]~~

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the State ~~[Board of Charter~~

~~Schools~~ **Public Charter School Authority** or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate. If the proposed amendment complies with the provisions of ~~this section,~~ NRS 386.500 to 386.610, inclusive, **and sections 26 to ~~35,~~ 35.5, inclusive, of this act,** and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.

7. The State ~~Board of Charter Schools~~ **Public Charter School Authority** shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

- (a) Period for which such a written charter is valid; and
 - (b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.
- ➡ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

8. The holder of a written charter that is issued pursuant to subsection 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the State ~~Board of Charter Schools~~ **Public Charter School Authority** pursuant to subsection 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

↪ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 42. NRS 386.530 is hereby amended to read as follows:

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than 120 days before the expiration of the charter. The application must include the information prescribed by the regulations of the ~~Department~~ **State** ~~Board of Charter Schools~~ **Public Charter School Authority**. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the ~~Department~~ **State** ~~Board of Charter Schools~~ **Public Charter School Authority**. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

↪ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the ~~Department~~ **State** ~~Board of Charter Schools~~ **Public Charter School Authority**. The sponsor shall conduct an intensive review and evaluation of the charter

school in accordance with the regulations of the ~~{Department,}~~ *State ~~{Board of Charter Schools,}~~ **Public Charter School Authority.*** The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➡ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

Sec. 43. NRS 386.540 is hereby amended to read as follows:

386.540 1. ~~{The Department,}~~ *Subject to the provisions of subsections 3 and 4, the State ~~{Board of Charter Schools,}~~ **Public Charter School Authority*** shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the ~~{Department, the}~~ board of trustees of a school district, the ~~{Subcommittee on}~~ *State ~~{Board of Charter Schools,}~~ **Public Charter School Authority*** and a college or university within the Nevada System of Higher Education, and the contents of the application;

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

(d) The criteria and type of investigation that must be applied by the board of trustees, ~~{the Subcommittee on Charter Schools,}~~ the State ~~{Board of Charter Schools,}~~ ***Public Charter School Authority*** and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school or an application to renew a written charter.

2. *Subject to the provisions of subsections 3 and 4, the State ~~{Board of Charter Schools,}~~ **Public Charter School Authority** may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to ~~{35,}~~ 35.5, inclusive, of this act, including, without limitation, regulations that prescribe the:*

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

(b) *Requirements for performance audits every 3 years for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.*

3. The Department may adopt regulations *relating to the finances and budgets of charter schools* as it determines are necessary to carry out the

provisions of NRS 386.500 to 386.610, inclusive, **and sections 26 to ~~35,~~ 35.5, inclusive, of this act**, including, without limitation, regulations that prescribe the:

- (a) Procedures for accounting and budgeting;
- (b) Requirements for ~~performance audits and~~ financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and
- (c) Requirements for ~~performance audits every 3 years and~~ financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

4. The State Board of Education may disapprove any regulation adopted by the State ~~Board of Charter Schools,~~ Public Charter School Authority if the regulation:

- (a) Threatens the efficient operation of the public schools in this State; or
- (b) Creates an undue financial hardship for any charter school in this State.

↪ A regulation shall be deemed approved if the State Board of Education does not disapprove the regulation within 45 days after it is adopted by the State ~~Board of Charter Schools,~~ Public Charter School Authority.

Sec. 44. NRS 386.547 is hereby amended to read as follows:

386.547 The State ~~Board of Charter Schools,~~ **Public Charter School Authority shall:**

1. Review all statutes and regulations from which charter schools are exempt and determine whether such exemption assisted or impeded the charter schools in achieving their educational goals and objectives.
2. Make available information concerning the formation and operation of charter schools in this State to pupils, parents and legal guardians of pupils, teachers and other educational personnel and members of the general public.

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

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

- (a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;
- (b) Each financial audit and each performance audit of the charter school required ~~by the Department,~~ **pursuant to NRS 386.540** contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;
- (c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board ~~=, of Charter Schools,~~ **for the majority of the years of its operation; and**

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

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

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the ~~{Department}~~ State Board of Charter Schools ~~Public Charter School Authority~~ one time every 3 years. The sponsor of the charter school and the ~~{Department}~~ regulations of the State Board of Charter Schools ~~Public Charter School Authority~~ shall not ~~{request}~~ require a performance audit of the charter school more frequently than every 3 years without reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the ~~{State Board of Charter Schools}~~ Department pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:

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

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

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

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

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

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the

board of trustees of the school district and during times that are not regular school hours.

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Upon completion of each school quarter, the ~~sponsor of a charter school may request reimbursement from the governing body of the charter school.~~ Superintendent of Public Instruction shall pay to the sponsor of a charter school one-quarter of the yearly sponsorship fee for the administrative costs associated with sponsorship for that school quarter ~~if the sponsor provided administrative services during that school quarter. The request must include an itemized list of those costs. Unless a delay is granted pursuant to subsection~~ [9.] ~~/8, upon receipt of such a request, the governing body shall pay the reimbursement to the~~ [board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors] ~~the sponsor of the charter school. If a governing body fails to pay the reimbursement pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection~~ [9.] ~~/8, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary.~~ [If the board of trustees of a school district is the sponsor of a charter school, the] ~~The amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed~~ [:-

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

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

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

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

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

5. ~~2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~ which must be deducted from the quarterly apportionment to the charter school made pursuant to NRS 387.124. Except as otherwise provided in this subsection, the yearly sponsorship fee for the sponsor of a charter school must be in an amount of money not to exceed 2 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124. If the governing body of a charter school satisfies the requirements of this subsection, the governing body may submit a request to the sponsor of the charter school for transmittal to the Superintendent of Public Instruction for approval of a sponsorship fee in an amount that is less than 2 percent but at least 1 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124. The Superintendent of Public Instruction shall approve such a request if the Superintendent determines that the charter school satisfies the requirements of this subsection. If the Superintendent of Public Instruction approves such a request, the Superintendent shall provide notice of his or her decision to the governing body of the charter school and the sponsor of the charter school. The governing body of a charter school may submit a request for a reduction of the sponsorship fee if:

(a) The charter school has been operating in this State for at least 3 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required pursuant to NRS 386.540 contains no major notations, corrections or errors concerning the charter school for at least 3 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement

in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation; and

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

4. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

~~{6.}~~ 5. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

~~{7.}~~ 6. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State ~~{Board of Charter Schools}~~ Public Charter School Authority may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~{8.}~~ 7. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

~~{9.}~~ ~~{8.}~~ The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation,

~~documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.~~

Sec. 47. NRS 386.576 is hereby amended to read as follows:

386.576 1. The Fund for Charter Schools is hereby created in the State Treasury as a revolving loan fund, to be administered by the ~~{Department}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority.

2. The money in the revolving fund must be invested as other state funds are invested. All interest and income earned on the money in the revolving fund must be credited to the revolving fund. Any money remaining in the revolving fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.

3. All payments of principal and interest on all the loans made to a charter school from the revolving fund must be deposited in the State Treasury for credit to the revolving fund.

4. Claims against the revolving fund must be paid as other claims against the State are paid.

5. The ~~{Department}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority may accept gifts, grants, bequests and donations from any source for deposit in the revolving fund.

Sec. 48. NRS 386.577 is hereby amended to read as follows:

386.577 1. After deducting the costs directly related to administering the Fund for Charter Schools, the ~~{Department}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority may use the money in the Fund for Charter Schools, including repayments of principal and interest on loans made from the Fund, and interest and income earned on money in the Fund, only to make loans at or below market rate to charter schools for the costs incurred:

(a) In preparing a charter school to commence its first year of operation; and

(b) To improve a charter school that has been in operation.

2. The total amount of a loan that may be made to a charter school in 1 year must not exceed \$25,000.

Sec. 49. NRS 386.578 is hereby amended to read as follows:

386.578 1. If the governing body of a charter school has a written charter issued pursuant to NRS 386.527, the governing body may submit an application to the ~~{Department}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority for a loan from the Fund for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The ~~{Department}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority shall, within the limits of money available for use in the Fund, make loans to charter schools whose applications have been approved.

If the ~~{Department}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority makes a loan from the Fund, the ~~{Department}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. ~~{The}~~ Subject to the provisions of subsection 3 of NRS 386.540, the State ~~{Board}~~ ~~{of Charter Schools}~~ Public Charter School Authority:

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the ~~{Department}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority by a charter school that desires to receive a loan from the Fund; and

(2) Period for repayment and the rate of interest for loans made from the Fund.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

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

386.605 1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is required pursuant to ~~{subsection} {2} {3 of}~~ NRS 385.347 to ~~{the board of trustees of the school district in which the charter school is located} {}~~

~~{(a) If the charter school is sponsored by the board of trustees of a school district or a college or university within the Nevada System of Higher Education, the sponsor of the charter school, which shall forward the information to the State Board of Charter Schools in a timely manner; or~~

~~{(b) If the charter school is sponsored by the State Board of Charter Schools, the State Board of Charter Schools,~~

~~{the sponsor of the charter school}~~ for inclusion in the report ~~{of the}~~ the sponsor of the charter school for inclusion in the report ~~{of the}~~ required pursuant to that section. The information must be submitted ~~{by the charter school}~~ in a format prescribed by the ~~{board of trustees}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority.

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

Sec. 51. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, ~~{if the}~~ the ~~{State Board, the}~~ the ~~{board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school,}~~ the

Department,] ~~the board of trustees or the institution, as applicable,~~ the sponsor of a charter school shall submit a written report to the ~~State Board of Charter Schools,~~ Department. The written report must include:

(a) An evaluation of the progress of each charter school ~~sponsored by the State Board, the board of trustees or the institution, as applicable,~~ that it sponsors in achieving ~~its~~ the educational goals and objectives ~~of the charter school.~~

(b) A description of all administrative support and services provided by the ~~Department, the school district or the institution, as applicable,~~ sponsor to the charter school ~~],~~ , including, without limitation, an itemized accounting for the costs of the support and services.

(c) An identification of each charter school approved by the sponsor:

(1) Which has not opened and the scheduled time for opening, if any;

(2) Which is open and in operation;

(3) Which has transferred sponsorship;

(4) Whose written charter has been revoked by the sponsor;

(5) Whose written charter has not been renewed by the sponsor; and

(6) Which has voluntarily ceased operation.

(d) A description of the strategic vision of the sponsor for the charter schools that it sponsors and the progress of the sponsor in achieving that vision.

(e) A description of the services provided by the sponsor pursuant to a service agreement entered into with the governing body of the charter school pursuant to section 35.3 of this act, including an itemized accounting of the actual costs of those services.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the ~~Department, State Board of Charter Schools,~~ Public Charter School Authority, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 52. NRS 386.650 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The Superintendent of Public Instruction shall:

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

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

(c) Prescribe the format for the data;

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

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

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

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

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

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

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

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

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

Sec. 53. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus the sponsorship fee prescribed by NRS 386.570 and minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the State ~~Board of Charter Schools~~ Public Charter School Authority or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus the sponsorship fee prescribed by NRS 386.570 and minus all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part-time in the program. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the

program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. The apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

8. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, the State Controller may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 54. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

- (a) Plans that have been adopted by the Department and the school districts in this State;
- (b) Plans that have been adopted in other states;
- (c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347 ~~and similar information included in the annual report of accountability information prepared by the State Board of Charter Schools~~ **Public Charter School Authority and a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347;**

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

- (a) Incorporate educational technology into the public schools of this State;
- (b) Increase the number of pupils in the public schools of this State who have access to educational technology;
- (c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;
- (d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and
- (e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

- (a) Administrative support;
- (b) Equipment; and
- (c) Office space,

↪ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

- (a) The State Board.
- (b) The board of trustees of each school district.
- (c) The superintendent of schools of each school district.
- (d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➤ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 55. NRS 392.128 is hereby amended to read as follows:

392.128 1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

(a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of the school district *or the State ~~Board of Charter Schools~~ **Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school*** pursuant to subsection ~~7~~ **8** of NRS 385.347;

(b) Identify factors that contribute to the truancy of pupils in the school district;

(c) Establish programs to reduce the truancy of pupils in the school district, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;

(d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chair of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the chair of an advisory board divides the advisory board into subcommittees, the chair shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas within the school district in which community services are not available to

assist pupils who are truant. As used in this subsection, "family resource center" has the meaning ascribed to it in NRS 430A.040.

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

Sec. 56. NRS 218E.615 is hereby amended to read as follows:

218E.615 1. The Committee may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;

(2) Legislative measures regarding education;

(3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and the annual measurable objectives established by the State Board of Education pursuant to NRS 385.361;

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

(6) The program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The Committee shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, ~~State Board of Charter Schools,~~ **Public Charter School Authority**, school districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In

recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

(d) For the purposes set forth in NRS 385.3785, recommend to the Commission on Educational Excellence created by NRS 385.3784 programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 57. NRS 386.507 ~~is~~ **and 386.508 are** hereby repealed.

Sec. 58. The Department of Education shall, on or before October 1, 2011, transfer to the Account for the State ~~Board of Charter Schools~~ **Public Charter School Authority** created by section 35 of this act any unexpended money collected by the Department pursuant to NRS 386.570 for reimbursement of the administrative costs associated with sponsorship of charter schools sponsored by the State Board of Education.

Sec. 59. Notwithstanding the provisions of section 31 of this act to the contrary, on October 1, 2011, the Governor shall appoint a Director of the State ~~Board of Charter Schools~~ **Public Charter School Authority to a term of 3 years. The Director appointed by the Governor must have a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State.** Upon the expiration of the term of the Director or if a vacancy occurs before the expiration of the term, the State ~~Board of Charter Schools~~ **Public Charter School Authority** shall appoint the Director in accordance with section 31 of this act.

Sec. 60. 1. To assist the State ~~Board of Charter Schools~~ **Public Charter School Authority** created by section ~~29~~ **28.5** of this act in carrying out its duties and responsibilities, the Director of the State ~~Board of Charter Schools~~ **Public Charter School Authority** shall, on **or before** January 1, 2012:

- (a) Hire an administrative assistant and an accounting assistant; and
- (b) Hire an educational consultant.

2. On January 1, 2012, one management analyst position in the Department of Education with job duties and responsibilities that relate to charter schools must be transferred to the State ~~Board of Charter Schools~~ **Public Charter School Authority.**

Sec. 61. On or before January 1, 2012, the members of the State ~~Board of Charter Schools~~ **Public Charter School Authority** created by section ~~29~~ **28.5** of this act shall be appointed to terms commencing on January 1, 2012, as follows:

1. One member appointed by the Governor to a term that expires on June 30, 2013.
2. One member appointed by the Governor to a term that expires on June 30, 2015.
3. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2013.
4. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2015.
5. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2013.
6. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2015.

7. One member must be appointed by an association of charter schools to a term that expires on June 30, 2015. For the initial selection pursuant to this subsection, the Superintendent of Public Instruction shall designate the association of charter schools that is authorized to appoint a member of the State ~~Board of Charter Schools.~~ **Public Charter School Authority.**

Sec. 62. The Legislative Counsel shall, in preparing the reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

Sec. 63. Any regulations adopted by the Department of Education or the State Board of Education pursuant to NRS 386.500 to 386.610, inclusive, before January 1, 2012, remain in effect and may be enforced by the State ~~Board of Charter Schools.~~ **Public Charter School Authority** created by section ~~(29)~~ **28.5** of this act until the State ~~Board of Charter Schools.~~ **Public Charter School Authority** adopts regulations to repeal or replace those regulations.

Sec. 64. A charter school that is approved to operate as a charter school sponsored by the State Board of Education before January 1, 2012, shall be deemed to be sponsored by the State ~~Board of Charter Schools.~~ **Public Charter School Authority created pursuant to section 28.5 of this act** commencing on January 1, 2012, and the written charter of the charter school shall remain in effect until the expiration of the written charter, unless the written charter is revoked by the State ~~Board of Charter Schools.~~ **Public Charter School Authority** pursuant to NRS 386.535. Before expiration of the written charter, such a charter school may apply to the State ~~Board of Charter Schools.~~ **Public Charter School Authority** for renewal of its written charter pursuant to NRS 386.530.

Sec. 65. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory

administrative tasks that are necessary to carry out the provisions of this act, and on July 1, 2011, for all other purposes.

TEXT OF REPEALED ~~SECTION~~ SECTIONS

386.507 Subcommittee on Charter Schools: Appointment of members; terms. The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his or her service on the Subcommittee, the term of the member on the Subcommittee expires when his or her membership on the State Board expires. Members of the Subcommittee may be reappointed.

386.508 Charter School District for State Board-Sponsored Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. There is hereby created a school district to be designated as the Charter School District for State Board-Sponsored Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the State Board or sponsored by a college or university within the Nevada System of Higher Education. The State Board is hereby deemed the Board of Trustees of the School District. The School District is created for the sole purpose of providing local educational agency status to the School District for purposes of federal law governing charter schools.

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. 294 makes numerous changes to Senate Bill No. 212. The amendment adds a declaration of legislative findings; changes the name of the charter school board to the State Public Charter School Authority, established as a state-level, high quality charter school sponsor, and designates its mission and regulatory powers; it also clarifies the qualifications of Authority members and staff; clarifies the process allowing charter schools to purchase services from its sponsor; establishes the Authority as a Local Education Agency (LEA) for the schools it sponsors, under the definition of federal law; specifies the powers and duties of a charter school sponsor; revises the State Department of Education's role in regulating charter schools and reviewing applications; establishes a new process for assessing and apportioning the annual sponsorship fee, providing for a reduction of that fee under certain circumstances; and establishes certain reporting requirements for the Authority and other charter school sponsors.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 266.

Bill read second time.

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

Amendment No. 303.

"SUMMARY—Revises provisions governing the possession of pets by tenants of a manufactured home park. (BDR 10-960)"

"AN ACT relating to property; revising provisions governing the possession of pets by tenants of a manufactured home park; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally prohibits a landlord of a manufactured home park or his or her agent or employee from: (1) charging a fee for pets kept by tenants in the park; or (2) including in a rental agreement the requirement to pay an additional fee for keeping a pet. (NRS 118B.050, 118B.140) This bill additionally prohibits a landlord or his or her agent or employee from requiring a tenant to pay a deposit as a prerequisite to keeping a pet in the park. This bill also provides that a landlord ~~for his or her agent or employee shall not prohibit a tenant from keeping a dog or cat as a pet unless the dog or cat poses a threat to the safety of others in the park.~~ **cannot prohibit a tenant from keeping at least one dog or cat as a pet, but authorizes a landlord to adopt reasonable restrictions: (1) prohibiting a tenant from keeping a vicious or dangerous animal; (2) concerning the size of a pet kept by a tenant; and (3) concerning the number of pets kept by a tenant.**

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

Section 1. NRS 118B.140 is hereby amended to read as follows:

118B.140 1. Except as otherwise provided in subsection 2, the landlord or his or her agent or employee shall not:

(a) Require a person to purchase a manufactured home from the landlord or any other person as a condition to renting a manufactured home lot to the purchaser or give an adjustment of rent or fees, or provide any other incentive to induce the purchase of a manufactured home from the landlord or any other person.

(b) Charge or receive:

(1) Any entrance or exit fee for assuming or leaving occupancy of a manufactured home lot.

(2) Any transfer or selling fee or commission as a condition to permitting a tenant to sell his or her manufactured home or recreational vehicle within the manufactured home park, even if the manufactured home or recreational vehicle is to remain within the park, unless the landlord is licensed as a dealer of manufactured homes pursuant to NRS 489.311 and has acted as the tenant's agent in the sale pursuant to a written contract.

(3) Any fee for the tenant's spouse or children.

(4) Any fee for pets kept by a tenant in the park. If special facilities or services are provided, the landlord may also charge a fee reasonably related to the cost of maintenance of the facility or service and the number of pets kept in the facility.

(5) Any additional service fee unless the landlord provides an additional service which is needed to protect the health and welfare of the tenants, and written notice advising each tenant of the additional fee is sent to the tenant 90 days in advance of the first payment to be made, and written notice of the additional fee is given to prospective tenants on or before commencement of their tenancy. A tenant may only be required to pay the additional service fee for the duration of the additional service.

(6) Any fee for a late monthly rental payment within 4 days after the date the rental payment is due or which exceeds \$5 for each day, excluding Saturdays, Sundays and legal holidays, which the payment is overdue, beginning on the day after the payment was due. Any fee for late payment of charges for utilities must be in accordance with the requirements prescribed by the Public Utilities Commission of Nevada.

(7) Any fee, surcharge or rent increase to recover from his or her tenants the costs resulting from converting from a master-metered water system to individual water meters for each manufactured home lot.

(8) Any fee, surcharge or rent increase to recover from his or her tenants any amount that exceeds the amount of the cost for a governmentally mandated service or tax that was paid by the landlord.

(c) Require a tenant to pay a deposit as a prerequisite to keeping a pet in the manufactured home park or prohibit a tenant from keeping ~~for~~ at least one dog or cat as a pet. ~~unless the dog or cat poses a threat to the safety of others in the park.~~ The landlord may adopt reasonable restrictions:

(1) Prohibiting a tenant from keeping a vicious or dangerous animal;

(2) Concerning the size of a pet kept by a tenant; and

(3) Concerning the number of pets kept by a tenant.

2. Except for the provisions of subparagraphs (3), (4), (6) and (8) of paragraph (b) **and paragraph (c)** of subsection 1, the provisions of this section do not apply to a corporate cooperative park.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

Senator Breeden requested that her remarks be entered in the Journal.

Amendment No. 303 to Senate Bill No. 266 provides that a landlord of a manufactured home park may not prohibit a tenant from keeping at least one dog or cat as a pet.

The landlord may also adopt reasonable restrictions; prohibiting a tenant from keeping a vicious or dangerous animal, concerning the size of a pet kept by a tenant and concerning the number of pets kept by a tenant.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 267.

Bill read second time.

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

Amendment No. 304.

"SUMMARY—Revises provisions governing personal information. (BDR 52-110)"

"AN ACT relating to personal information; ~~requiring a business entity or data collector to encrypt or destroy personal information that is stored on a copier, facsimile machine or multifunction device under certain circumstances; requiring an owner or lessor of certain copiers, facsimile machines or multifunction devices to destroy any personal information that is stored on the copier, facsimile machine or multifunction device under certain circumstances;~~ **revising provisions governing the protection of personal information collected by a data collector;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Section 4 of this bill requires a business entity or a data collector to ensure that any personal information which is stored on the data storage device of a copier, facsimile machine or multifunction device in the possession of the business entity or data collector is securely encrypted or destroyed by certain approved methods before the business entity or data collector relinquishes ownership, physical control or custody of the copier, facsimile machine or multifunction device to another person. Section 4 also requires the owner or lessor of a copier, facsimile machine or multifunction device that is leased or rented to a business entity or data collector to ensure that any personal information which is stored on the copier, facsimile machine or multifunction device is destroyed by certain approved methods as soon as practicable after the termination or cancellation of the lease agreement or rental contract, or upon assuming physical custody or control of the copier, facsimile machine or multifunction device.~~ **Existing law prohibits a data collector from moving any data storage device containing personal information beyond the control of the data collector or its data storage contractor unless the data collector uses encryption to ensure the security of the information. (NRS 603A.215) Section 6 of this bill additionally prohibits a data collector from moving a data storage device which is used by or is a component of a multifunctional device beyond the control of the data collector, its data storage contractor or a person who assumes the obligation of the data collector to protect personal information unless the data collector uses encryption to ensure the security of the information.**

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

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

Sec. 2. **(Deleted by amendment.)**

Sec. 3. **(Deleted by amendment.)**

Sec. 4. **(Deleted by amendment.)**

Sec. 5. **(Deleted by amendment.)**

Sec. 6. NRS 603A.215 is hereby amended to read as follows:

603A.215 1. If a data collector doing business in this State accepts a payment card in connection with a sale of goods or services, the data collector shall comply with the current version of the Payment Card Industry (PCI) Data Security Standard, as adopted by the PCI Security Standards Council or its successor organization, with respect to those transactions, not later than the date for compliance set forth in the Payment Card Industry (PCI) Data Security Standard or by the PCI Security Standards Council or its successor organization.

2. A data collector doing business in this State to whom subsection 1 does not apply shall not:

(a) Transfer any personal information through an electronic, nonvoice transmission other than a facsimile to a person outside of the secure system of the data collector unless the data collector uses encryption to ensure the security of electronic transmission; or

(b) Move any data storage device containing personal information beyond the logical or physical controls of the data collector, ~~for~~ its data storage contractor ***or, if the data storage device is used by or is a component of a multifunctional device, a person who assumes the obligation of the data collector to protect personal information,*** unless the data collector uses encryption to ensure the security of the information.

3. A data collector shall not be liable for damages for a breach of the security of the system data if:

(a) The data collector is in compliance with this section; and

(b) The breach is not caused by the gross negligence or intentional misconduct of the data collector, its officers, employees or agents.

4. The requirements of this section do not apply to:

(a) A telecommunication provider acting solely in the role of conveying the communications of other persons, regardless of the mode of conveyance used, including, without limitation:

(1) Optical, wire line and wireless facilities;

(2) Analog transmission; and

(3) Digital subscriber line transmission, voice over Internet protocol and other digital transmission technology.

(b) Data transmission over a secure, private communication channel for:

(1) Approval or processing of negotiable instruments, electronic fund transfers or similar payment methods; or

(2) Issuance of reports regarding account closures due to fraud, substantial overdrafts, abuse of automatic teller machines or related information regarding a customer.

5. As used in this section:

(a) "Data storage device" means any device that stores information or data from any electronic or optical medium, including, but not limited to, computers, cellular telephones, magnetic tape, electronic computer drives and optical computer drives, and the medium itself.

(b) "Encryption" means the protection of data in electronic or optical form, in storage or in transit, using:

(1) An encryption technology that has been adopted by an established standards setting body, including, but not limited to, the Federal Information Processing Standards issued by the National Institute of Standards and Technology, which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(2) Appropriate management and safeguards of cryptographic keys to protect the integrity of the encryption using guidelines promulgated by an established standards setting body, including, but not limited to, the National Institute of Standards and Technology.

(c) "Facsimile" means an electronic transmission between two dedicated fax machines using Group 3 or Group 4 digital formats that conform to the International Telecommunications Union T.4 or T.38 standards or computer modems that conform to the International Telecommunications Union T.31 or T.32 standards. The term does not include onward transmission to a third device after protocol conversion, including, but not limited to, any data storage device.

(d) ~~the~~ "Multifunctional device" means a machine that incorporates the functionality of devices, which may include, without limitation, a printer, copier, scanner, facsimile machine or electronic mail terminal, to provide for the centralized management, distribution or production of documents.

(e) "Payment card" has the meaning ascribed to it in NRS 205.602.

~~(f)~~ ~~(g)~~ (f) "Telecommunication provider" has the meaning ascribed to it in NRS 704.027.

Senator Halseth moved the adoption of the amendment.

Remarks by Senators Halseth and Schneider.

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

SENATOR HALSETH:

Amendment No. 304 to Senate Bill No. 267 revises the bill as a whole.

Instead, the amendment provides that a data collector doing business in Nevada who is not subject to the Payment Card Industry Data Security Standard shall take certain steps to ensure that personal information stored on certain machines is secure.

The amendment requires that a data collector shall not move any data storage device containing personal information beyond the logical or physical controls of a service provider that assumes the obligation of the data collector to protect the personal information, if the data storage device is used by, or as a component of, a multifunctional device, unless the data collector uses encryption to ensure the security of the information.

The amendment also defines the term, "multifunctional device."

SENATOR SCHNEIDER:

Thank you, Mr. President. This is probably one of the most important bills of the session. I did not know anything about this until it was presented. People and businesses have copier machines. The information for any copy that has been made is stored on the hard drive of the copier. Attorneys' offices, doctors' offices and all other offices that use copiers trade their old

machines in for newer models. All of the copies they have made are stored on the hard drive and can be accessed by anyone. This is a great bill and I want to commend my fellow Senator for bringing this bill to us.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 278.

Bill read second time.

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

Amendment No. 267.

"SUMMARY—Revises provisions relating to health care and health insurance. (BDR 57-253)"

"AN ACT relating to health care; ~~requiring the Commissioner of Insurance to establish a task force to study the use in this State of electronic identification cards that contain certain health insurance information; setting forth the powers and duties of the task force and the requirements of the study; requiring the Division of Insurance of the Department of Business and Industry to provide administrative support for the task force; prohibiting certain insurers and certain self-insured governmental entities from requiring prior authorization for medical and dental care under certain circumstances;~~ revising provisions governing the modification of contracts between insurers and providers of health care under certain circumstances; requiring the ~~Director of the~~ Department of Health and Human Services to ~~prescribe a minimum~~ **report certain rates of** reimbursement ~~rate~~ **for physicians** for care and services provided pursuant to **certain** state plans **and programs** which provide medical assistance; **providing that certain requirements concerning health insurance shall be deemed not to apply to certain nonprofit entities;** revising the requirement that certain insurers and health care facilities accept a standardized form to obtain information relating to the credentials of a provider of health care; **requiring the Department to conduct a study concerning medical homes;** requiring ~~a report concerning the results of the study of electronic identification cards by the task force and any recommendations for legislation to be provided~~ **the Department to submit reports concerning certain studies** to the Legislature; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~† Section 2 of this bill requires the Commissioner of Insurance to establish a task force on the use in this State of electronic identification cards that contain information relating to health insurance. The task force must consist of the Commissioner, the Director of the Department of Health and Human Services and three other members with knowledge and experience concerning health insurance or health care in this State who are appointed by the Commissioner. Section 3 of this bill requires the task force to study the use in this State of electronic identification cards which contain in an~~

~~electronic format the information that is necessary to process a claim for coverage under a health care plan and specifies the issues that must be included in the study. Section 5 of this bill requires the Division of Insurance of the Department of Business and Industry to provide administrative support for the task force. Section 22 of this bill requires the Commissioner of Insurance, on or before January 31, 2013, to submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the results of the study conducted by the task force and any recommendations for legislation.~~

~~Sections 6 and 18 of this bill prohibit certain insurers and self insured governmental entities from requiring an insured to obtain prior authorization for medical and dental care if certain conditions are met including that: (1) the insured has been diagnosed with a severe or chronic condition by a specialized health care provider; (2) the insurer or entity has confirmed the diagnosis; (3) the medical or dental service is covered by the contract or plan of insurance; (4) the medical or dental service is clinically appropriate; (5) the medical or dental service is medically necessary; and (6) the medical or dental service is not more costly than and is equally effective as other services. The Commissioner is required to adopt regulations for carrying out the provisions of section 6.~~

Sections 8-12, 14 and 15 of this bill require written notice of a contract modification between certain insurers and a provider of health care which involves the insurer's schedule of payments to be sent to the provider at least ~~90~~ 45 days before the proposed modification will take effect, ~~and~~ and require such insurers, upon request, to submit to a provider of health care with whom they contract any changes to the fee schedule applicable to the provider's practice. Section 14.5 of this bill imposes similar requirements with respect to contracts between an organization for dental care and a dentist and, consistent with similar provisions of law, provides that such a contract may be modified at any time pursuant to a written agreement executed by both parties.

Section 16 of this bill requires the ~~Director of the~~ Department of Health and Human Services, with respect to the State Plan for Medicaid and the Children's Health Insurance Program, to ~~include in each state plan which provides medical assistance a rate for reimbursing providers of health care which is not lower than the rate offered by Medicare in 2002.~~ report every rate of reimbursement for physicians which is provided on a fee-for-service basis and which is lower than the rate provided on the current Medicare fee schedule for care and services provided by physicians. Section 16 also requires the Director of the Department to publish a schedule of such rates of reimbursement on an Internet website maintained by the Department, and to submit an annual report concerning such rates to the Legislature.

Section 17.5 of this bill provides that certain requirements concerning health insurance that are enacted after January 1, 2011, shall be deemed not to apply to certain nonprofit entities.

Existing law requires the Commissioner **of Insurance** to prescribe a single, standardized form for use by insurers, carriers, societies, corporations, health maintenance organizations and managed care organizations to obtain any information relating to the credentials of a provider of health care. (NRS 629.095) **Section 21** of this bill requires the Commissioner to prescribe that form for use by ~~insurers that provide medical malpractice insurance,~~ hospitals, medical facilities and other facilities that provide health care.

Section 24.5 of this bill requires the Department of Health and Human Services to conduct a study concerning medical homes and to submit certain reports concerning the study to the Legislature. Section 24.7 of this bill imposes similar reporting requirements on the Department with respect to its study of electronic identification cards that contain information relating to health insurance.

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

Section 1. ~~Chapter 679B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act. (Deleted by amendment.)~~

Sec. 2. ~~1. The Commissioner shall establish a task force on the use in this State of electronic identification cards that contain information relating to health insurance.~~

~~2. The task force must consist of the Commissioner, the Director of the Department of Health and Human Services and three other members with knowledge and experience concerning health insurance or health care in this State who are appointed by the Commissioner. A vacancy in the membership of the task force must be filled in the same manner as the original appointment.~~

~~3. The Commissioner is the Chair of the task force.~~

~~4. The task force shall meet at the call of the Commissioner. The task force shall prescribe regulations for its management and government.~~

~~5. A majority of the members of the task force constitutes a quorum, and a quorum may exercise all the powers conferred on the task force.~~

~~6. The appointed members of the task force serve at the pleasure of the Commissioner.~~

~~7. Except as otherwise provided in this subsection, the members of the task force serve without compensation. The members of the task force who are state employees must be relieved from their duties without loss of their regular compensation to perform their duties relating to the task force in the most timely manner practicable. The state employees may not be required to make up the time they are absent from work to fulfill their obligations as members of the task force or take annual leave or compensatory time for the absence. While engaged in the business of the task force, each member is~~

~~entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.] (Deleted by amendment.)~~

~~Sec. 3. 1. The task force shall study the use in this State of electronic identification cards which contain in an electronic format the information that is necessary to process a claim for coverage under a health care plan, including, without limitation:~~

~~(a) Issues relating to the security, privacy, data content, storage and confidentiality of information contained on or in an electronic identification card and methods to ensure the security, privacy and confidentiality of such information.~~

~~(b) The issuance, usage and contents of electronic identification cards.~~

~~(c) The standards for technology and tools through which information contained on or in electronic identification cards may be electronically recognized, exchanged, transmitted and stored using machine readable technology, which may include, without limitation, bar codes, magnetic strips or radio frequency identification.~~

~~(d) The information that may be electronically recognized, exchanged, transmitted and stored on electronic identification cards.~~

~~(e) The methods for verifying coverage and eligibility for benefits, requirements for processing requests for prior authorization and requirements for denying coverage through the use of electronic data interchange.~~

~~(f) The structure and format of the information contained on or in an electronic identification card.~~

~~(g) The insurers, providers of health care and other persons who should be required to issue or accept electronic identification cards.~~

~~(h) The effect of all applicable state and federal laws on any program used to produce or use electronic identification cards.~~

~~(i) The advisability of requiring the use of electronic identification cards in this State.~~

~~(j) If the task force determines that the use of electronic identification cards in this State should be required, the most efficient and cost-effective manner in which a program requiring the use of electronic identification cards could be implemented in this State.~~

~~2. The task force may also include in the study an evaluation of the use of any other technological device similar to an electronic identification card.] (Deleted by amendment.)~~

~~Sec. 4. [The task force may apply for any available grants and accept any gifts, grants or donations to assist the task force in carrying out its duties pursuant to sections 2 to 5, inclusive, of this act.] (Deleted by amendment.)~~

~~Sec. 5. [The Division shall provide the personnel, facilities, equipment and supplies required by the task force to carry out its duties pursuant to sections 2 to 5, inclusive, of this act.] (Deleted by amendment.)~~

~~Sec. 6. [Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A contract for group, blanket or individual health insurance or any contract issued by a nonprofit hospital, medical or dental service corporation or organization for dental care which provides for the payment of a certain part of medical or dental care must not require an insured or member who has been diagnosed with a severe or chronic condition by a provider of health care who is specialized in the care or treatment of the severe or chronic condition to obtain prior authorization for a medical or dental service for the care of that condition if:~~

~~(a) The insurer or organization has confirmed the diagnosis of the severe or chronic condition made by the provider of health care;~~

~~(b) The provider of health care is ordering a medical or dental service that is covered by the contract as a service for the severe or chronic condition;~~

~~(c) The type, frequency, dosage and duration of the medical or dental service is considered effective for the severe or chronic condition;~~

~~(d) The medical or dental service is medically necessary for the severe or chronic condition; and~~

~~(e) The medical or dental service is not more costly than an alternative medical or dental service or sequence of services and is at least as likely to produce an equivalent therapeutic or diagnostic result.~~

~~2. The Commissioner shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, regulations:~~

~~(a) Identifying the severe or chronic conditions to which the provisions of this section apply, which must include, without limitation, cancer, pulmonary disease and heart disease;~~

~~(b) Determining the qualifications for a provider of health care to be considered specialized in the treatment of a particular severe or chronic condition for the purposes of this section, which may include, without limitation, certification by a specialty board of the American Board of Medical Specialties or by the American Osteopathic Association or any similar organization;~~

~~(c) Identifying the types of medical or dental services for which prior authorization is not required pursuant to this section; and~~

~~(d) Defining the term "medically necessary" as that term is used in this section;~~

~~3. The insurer or organization shall:~~

~~(a) File its procedure for confirming a diagnosis of a severe or chronic condition pursuant to this section for approval by the Commissioner; and~~

~~(b) Respond to any request for the confirmation of a diagnosis of a severe or chronic condition by the insured or member pursuant to this section within 20 days after it receives the request.~~

~~4. As used in this section, "medical or dental service" means any care, treatment, monitoring or evaluation of a medical or dental condition, including, without limitation, the provision of testing, imaging services,~~

~~medication, medical supplies and devices, therapy and any other professional or technical service which is used to provide medical or dental care.~~ **(Deleted by amendment.)**

Sec. 7. ~~NRS 687B.225 is hereby amended to read as follows:~~

~~687B.225 1. Except as otherwise provided in NRS 689A.0405, 689A.0413, 689A.044, 689A.0445, 689B.031, 689B.0313, 689B.0317, 689B.0374, 695B.1912, 695B.1914, 695B.1925, 695B.1942, 695C.1713, 695C.1735, 695C.1745, 695C.1751, 695G.170, 695G.171 and 695G.177, and section 6 of this act, any contract for group, blanket or individual health insurance or any contract by a nonprofit hospital, medical or dental service corporation or organization for dental care which provides for payment of a certain part of medical or dental care may require the insured or member to obtain prior authorization for that care from the insurer or organization. The insurer or organization shall:~~

~~(a) File its procedure for obtaining approval of care pursuant to this section for approval by the Commissioner; and~~

~~(b) Respond to any request for approval by the insured or member pursuant to this section within 20 days after it receives the request.~~

~~2. The procedure for prior authorization may not discriminate among persons licensed to provide the covered care.~~ **(Deleted by amendment.)**

Sec. 8. NRS 689A.035 is hereby amended to read as follows:

689A.035 1. An insurer shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the insurer to its insureds.

2. An insurer shall not contract with a provider of health care to provide health care to an insured unless the insurer uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between an insurer and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the insurer upon giving to the provider ~~{30}~~ ~~{90}~~ **45** days' written notice of the modification ~~{}~~ ~~{pursuant to subsection 4.}~~ **of the insurer's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.** If the provider fails to object in writing to the modification within the ~~{30-day}~~ ~~{90-day}~~ **45-day** period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day}~~ ~~{90-day}~~ **45-day** period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. ~~{An insurer that wishes to modify a contract pursuant to paragraph (b) of subsection 3 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the insurer and the provider. The~~

~~exterior of the notice must bear a statement, in at least 12 point bold type or font, in substantially the following form:~~

~~OFFICIAL NOTICE OF CONTRACT MODIFICATION~~

~~5.7~~ If an insurer contracts with a provider of health care to provide health care to an insured, the insurer shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, including any changes to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

5. ~~6.7~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 9. NRS 689B.015 is hereby amended to read as follows:

689B.015 1. An insurer that issues a policy of group health insurance shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the insurer to its insureds.

2. An insurer specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the insurer uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between an insurer specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the insurer upon giving to the provider ~~{30} {90}~~ 45 days' written notice of the modification ~~{ } { }~~ of the insurer's schedule of payments, including any changes to the fee schedule applicable to the provider's practice. If the provider fails to object in writing to the modification within the ~~{30-day} {90-day}~~ 45-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day} {90-day}~~ 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. ~~{An insurer that wishes to modify a contract pursuant to paragraph (b) of subsection 3 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the insurer and the provider. The exterior of the notice must bear a statement, in at least 12 point bold type or font, in substantially the following form:~~

~~OFFICIAL NOTICE OF CONTRACT MODIFICATION~~

~~5.7~~ If an insurer specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the insurer shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, including any changes to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

~~5. ~~6.7~~~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 10. NRS 689C.435 is hereby amended to read as follows:

689C.435 1. A carrier serving small employers and a carrier that offers a contract to a voluntary purchasing group shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the carrier to its insureds.

2. A carrier specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the carrier uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a carrier specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the carrier upon giving to the provider ~~{30} ~~{90}~~ 45~~ days' written notice of the modification ~~{-}~~ of the carrier's schedule of payments, including any changes to the fee schedule applicable to the provider's practice. If the provider fails to object in writing to the modification within the ~~{30-day} ~~{90-day}~~ 45 day~~ period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day} ~~{90-day}~~ 45 day~~ period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

~~4. ~~4~~ A carrier that wishes to modify a contract pursuant to paragraph (b) of subsection 3 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the carrier and the provider. The exterior of the notice must bear a statement, in at least 12 point bold type or font, in substantially the following form:~~

OFFICIAL NOTICE OF CONTRACT MODIFICATION

~~5.7~~ If a carrier specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the carrier shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, including any changes

to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

~~5. ~~6.7~~~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 11. NRS 695A.095 is hereby amended to read as follows:

695A.095 1. A society shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the society to its insureds.

2. A society shall not contract with a provider of health care to provide health care to an insured unless the society uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a society and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the society upon giving to the provider ~~{30} ~~90~~ 45~~ days' written notice of the modification ~~+~~ ~~[pursuant to subsection 4.]~~ of the society's schedule of payments, including any changes to the fee schedule applicable to the provider's practice. If the provider fails to object in writing to the modification within the ~~{30-day} ~~90-day~~ 45-day~~ period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day} ~~90-day~~ 45-day~~ period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. ~~If a society that wishes to modify a contract pursuant to paragraph (b) of subsection 3 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the society and the provider. The exterior of the notice must bear a statement, in at least 12-point bold type or font, in substantially the following form:~~

~~OFFICIAL NOTICE OF CONTRACT MODIFICATION~~

~~5.7~~ If a society contracts with a provider of health care to provide health care to an insured, the society shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, including any changes to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

~~5. ~~6.7~~~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 12. NRS 695B.035 is hereby amended to read as follows:

695B.035 1. A corporation subject to the provisions of this chapter shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the corporation to its insureds.

2. A corporation specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the corporation uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a corporation specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the corporation upon giving to the provider ~~{30} {90}~~ 45 days' written notice of the modification ~~{ } { } pursuant to subsection 4. of the corporation's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.~~ If the provider fails to object in writing to the modification within the ~~{30-day} {90-day}~~ 45-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day} {90-day}~~ 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. ~~{ } A corporation specified in subsection 1 that wishes to modify a contract pursuant to paragraph (b) of subsection 3 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the corporation and the provider. The exterior of the notice must bear a statement, in at least 12 point bold type or font, in substantially the following form:~~

~~OFFICIAL NOTICE OF CONTRACT MODIFICATION~~

~~5. If a corporation specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the corporation shall:~~

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, including any changes to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

~~6. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.~~

Sec. 13. ~~{ } NRS 695B.320 is hereby amended to read as follows:~~

~~695B.320 Nonprofit hospital and medical or dental service corporations are subject to the provisions of this chapter, and to the provisions of chapters 679A and 679B of NRS, NRS 686A.010 to 686A.315, inclusive,~~

~~687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150, 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, and section 6 of this act, 687B.270, 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430, and chapters 692C and 696B of NRS, to the extent applicable and not in conflict with the express provisions of this chapter.]~~
(Deleted by amendment.)

Sec. 14. NRS 695C.125 is hereby amended to read as follows:

695C.125 1. A health maintenance organization shall not contract with a provider of health care to provide health care to an insured unless the health maintenance organization uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

2. A contract between a health maintenance organization and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the health maintenance organization upon giving to the provider ~~{30} {90} 45~~ days' written notice of the modification ~~{ } {pursuant to subsection 3} of the health maintenance organization's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.~~ If the provider fails to object in writing to the modification within the ~~{30-day} {90-day} 45-day~~ period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day} {90-day} 45-day~~ period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

3. ~~{ } A health maintenance organization that wishes to modify a contract pursuant to paragraph (b) of subsection 2 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the health maintenance organization and the provider. The exterior of the notice must bear a statement, in at least 12 point bold type or font, in substantially the following form:~~

OFFICIAL NOTICE OF CONTRACT MODIFICATION

~~4. If a health maintenance organization contracts with a provider of health care to provide health care to an enrollee, the health maintenance organization shall:~~

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, **including any changes to the fee schedule applicable to the provider's practice,** specified in paragraph (a) within 7 days after receiving the request.

4. ~~5.~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 14.5. Chapter 695D of NRS is hereby amended by adding thereto a new section to read as follows:

1. A contract between an organization for dental care and a dentist may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the organization for dental care upon giving to the dentist 45 days' written notice of the modification of the organization for dental care's schedule of payments, including any changes to the fee schedule applicable to the dentist's practice. If the dentist fails to object in writing to the modification within the 45-day period, the modification becomes effective at the end of that period. If the dentist objects in writing to the modification within the 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

2. If an organization for dental care contracts with a dentist, the organization for dental care shall:

(a) If requested by the dentist at the time the contract is made, submit to the dentist the schedule of payments applicable to the dentist; or

(b) If requested by the dentist at any other time, submit to the dentist the schedule of payments, including any changes to the fee schedule applicable to the dentist's practice, specified in paragraph (a) within 7 days after receiving the request.

Sec. 15. NRS 695G.430 is hereby amended to read as follows:

695G.430 1. A managed care organization shall not contract with a provider of health care to provide health care to an insured unless the managed care organization uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

2. A contract between a managed care organization and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the managed care organization upon giving to the provider ~~30~~ ~~90~~ 45 days' written notice of the modification ~~1. If the provider fails to object in writing to the modification within the 30-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the 30-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).~~ of the managed care organization's schedule of payments, including any changes to the fee schedule applicable to the provider's practice. If the provider fails to object in writing to the modification within the ~~30-day~~ ~~90-day~~ 45-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~30-day~~ ~~90-day~~ 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

3. ~~If a managed care organization that wishes to modify a contract pursuant to paragraph (b) of subsection 2 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the managed care organization and the provider. The exterior of the notice must bear a statement, in at least 12 point bold type or font, in substantially the following form:~~

~~OFFICIAL NOTICE OF CONTRACT MODIFICATION~~

~~4.7~~ If a managed care organization contracts with a provider of health care to provide health care services pursuant to chapter 689A, 689B, 689C, 695A, 695B or 695C of NRS, the managed care organization shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, including any changes to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

4. ~~5.7~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 16. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~The Director shall provide in each state plan adopted by the Director which provides medical assistance, including, without limitation, the State Plan for Medicaid and the Children's Health Insurance Program and any waiver to such plans, a rate of reimbursement for providers of health care which is not~~ The Department, with respect to the State Plan for Medicaid and the Children's Health Insurance Program, shall report every rate of reimbursement for physicians which is provided on a fee-for-service basis and which is lower than the rate offered by Medicare on January 1, 2002, provided on the current Medicare fee schedule for care and services provided pursuant to the state plan, by physicians.

2. The Director shall post on an Internet website maintained by the Department a schedule of ~~the~~ such rates ~~provided by each state plan adopted by the Director which provides medical assistance.~~ of reimbursement.

3. The Director shall, on or before February 1 of each year, submit a report concerning the schedule of such rates of reimbursement to the Director of the Legislative Counsel Bureau for transmittal to the Legislature in odd-numbered years or to the Legislative Committee on Health Care in even-numbered years.

Sec. 17. NRS 232.290 is hereby amended to read as follows:

232.290 As used in NRS 232.290 to 232.484, inclusive, and section 16 of this act, unless the context requires otherwise:

1. "Department" means the Department of Health and Human Services.
2. "Director" means the Director of the Department.

Sec. 17.5. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

Any provision of this chapter which is enacted after January 1, 2011, and requires coverage for screening, diagnosis or treatment of any specific medical condition, or specifies or limits exclusions, limitations or eligibility requirements therefor, shall be deemed not to apply to any nonprofit entity that qualifies under Section 501(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c), as amended.

Sec. 18. ~~Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. If the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada provides health insurance through a plan of self insurance, the plan must not require an insured who has been diagnosed with a severe or chronic condition by a provider of health care who is specialized in the care or treatment of the severe or chronic condition to obtain prior authorization for a medical or dental service for the care of that condition if:~~

~~(a) The insurer has confirmed the diagnosis of the severe or chronic condition made by the provider of health care;~~

~~(b) The provider of health care is ordering a medical or dental service that is covered by the plan as a service for the severe or chronic condition;~~

~~(c) The type, frequency, dosage and duration of the medical or dental service is considered effective for the severe or chronic condition;~~

~~(d) The medical or dental service is medically necessary for the severe or chronic condition; and~~

~~(e) The medical or dental service is not more costly than an alternative medical or dental service or sequence of services and is at least as likely to produce an equivalent therapeutic or diagnostic result.~~

~~2. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self insurance shall, as part of its plan of self insurance and in a manner consistent with the regulations adopted by the Commissioner of Insurance pursuant to section 6 of this act:~~

~~(a) Identify the severe or chronic conditions to which the provisions of this section apply, which must include, without limitation, cancer, pulmonary disease and heart disease;~~

~~(b) Determine the qualifications for a provider of health care to be considered specialized in the treatment of a particular severe or chronic condition for the purposes of this section, which may include, without limitation, certification by a specialty board of the American Board of~~

~~Medical Specialties or by the American Osteopathic Association or any similar organization;~~

~~(c) Identify the types of medical or dental services for which prior authorization is not required pursuant to this section; and~~

~~(d) Define the term "medically necessary" as that term is used in this section.~~

~~3. As used in this section, "medical or dental service" means any care, treatment, monitoring or evaluation of a medical or dental condition, including, without limitation, the provision of testing, imaging services, medication, medical supplies and devices, therapy and any other professional or technical service which is used to provide medical or dental care.~~ **(Deleted by amendment.)**

Sec. 19. ~~NRS 287.040 is hereby amended to read as follows:~~

~~287.040 The provisions of NRS 287.010 to 287.040, inclusive, and section 18 of this act do not make it compulsory upon any governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada, except as otherwise provided in NRS 287.021 or subsection 4 of NRS 287.023 or in an agreement entered into pursuant to subsection 3 of NRS 287.015, to pay any premiums, contributions or other costs for group insurance, a plan of benefits or medical or hospital services established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, for coverage under the Public Employees' Benefits Program, or to make any contributions to a trust fund established pursuant to NRS 287.017, or upon any officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State to accept any such coverage or to assign his or her wages or salary in payment of premiums or contributions therefor.~~ **(Deleted by amendment.)**

Sec. 20. ~~NRS 287.04335 is hereby amended to read as follows:~~

~~287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, and section 6 of this act in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.~~ **(Deleted by amendment.)**

Sec. 21. NRS 629.095 is hereby amended to read as follows:

629.095 1. Except as otherwise provided in subsection 2, the Commissioner of Insurance shall develop, prescribe for use and make available a single, standardized form for use by insurers, carriers, societies, corporations, health maintenance organizations, ~~and~~ managed care organizations, *hospitals, medical facilities and other facilities that provide health care* in obtaining any information related to the credentials of a provider of health care.

2. The provisions of subsection 1 do not prohibit the Commissioner of Insurance from developing, prescribing for use and making available:

(a) Appropriate variations of the form described in that subsection for use in different geographical regions of this State.

(b) Addenda or supplements to the form described in that subsection to address, until such time as a new form may be developed, prescribed for use and made available, any requirements newly imposed by the Federal Government, the State or one of its agencies, or a body that accredits hospitals, medical facilities or health care plans.

3. With respect to the form described in subsection 1, the Commissioner of Insurance shall:

(a) Hold public hearings to seek input regarding the development of the form;

(b) Develop the form in consideration of the input received pursuant to paragraph (a);

(c) Ensure that the form is developed in such a manner as to accommodate and reflect the different types of credentials applicable to different classes of providers of health care;

(d) Ensure that the form is developed in such a manner as to reflect standards of accreditation adopted by national organizations which accredit hospitals, medical facilities and health care plans; and

(e) Ensure that the form is developed to be used efficiently and is developed to be neither unduly long nor unduly voluminous.

4. As used in this section:

(a) "Carrier" has the meaning ascribed to it in NRS 689C.025.

(b) "Corporation" means a corporation operating pursuant to the provisions of chapter 695B of NRS.

(c) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.

(d) "Insurer" means:

(1) An insurer that issues policies of individual health insurance in accordance with chapter 689A of NRS; and

(2) An insurer that issues policies of group health insurance in accordance with chapter 689B of NRS ~~and~~

~~(3) An insurer that issues policies of insurance for medical malpractice, as defined in NRS 679B.144.~~

(e) "Managed care organization" has the meaning ascribed to it in NRS 695G.050.

(f) "Provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

(g) "Society" has the meaning ascribed to it in NRS 695A.044.

~~Sec. 22. The Commissioner of Insurance shall, on or before January 31, 2013, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the results of the study conducted by the task force established~~

~~pursuant to section 2 of this act concerning the use in this State of electronic identification cards and any recommendations for legislation. (Deleted by amendment.)~~

~~Sec. 23. 1. A contract for group, blanket or individual health insurance or any contract issued by a nonprofit hospital, medical or dental service corporation or organization for dental care which provides for payment of a certain part of medical or dental care which is delivered, issued for delivery or renewed on or after January 1, 2012, must comply with the provisions of section 6 of this act.~~

~~2. A plan of self insurance governed by NRS 287.04335, as amended by section 20 of this act, must ensure that any plan which is delivered, issued for delivery or renewed on or after January 1, 2012, complies with the provisions of section 18 of this act. (Deleted by amendment.)~~

~~Sec. 24. 1. A provider of health care who provides care or services on or after January 1, 2012, pursuant to a state plan which provides medical assistance must be reimbursed at the rate:~~

~~1. Described in section 16 of this act; or~~

~~2. Provided in the state plan;~~

~~whichever is higher. (Deleted by amendment.)~~

Sec. 24.5. 1. The Department of Health and Human Services shall conduct a study concerning medical homes. The study must include, without limitation, an evaluation of:

(a) The progress made in the development of medical homes in this State;

(b) The manner in which insurers work with medical homes concerning the adequacy of health care networks; and

(c) Models for reimbursement of medical homes and any options for different methods of preauthorization for the care and services provided by medical homes.

2. The Department shall:

(a) During the calendar year 2012, submit such progress reports concerning the study to the Legislative Committee on Health Care as requested by the Committee; and

(b) On or before January 1, 2013, submit a final report concerning the findings of the study, including the potential cost to this State of such medical homes and any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

3. As used in this section, "medical home" means a medical practice which utilizes a model for the delivery of health care:

(a) In which a patient establishes an ongoing relationship with a physician in a physician-directed team; and

(b) The purpose of which is to provide comprehensive, accessible and continuous evidence-based primary and preventive care and to coordinate the health care needs of the patient across the health care

system to improve quality, safety, access and health outcomes in a cost-effective manner.

Sec. 24.7. The Department of Health and Human Services, with respect to the study being conducted by the Department concerning electronic identification cards that contain information relating to health insurance, shall:

1. During the calendar year 2012, submit such progress reports concerning the study to the Legislative Committee on Health Care as requested by the Committee; and

2. On or before January 1, 2013, submit a final report concerning the findings of the study, including the potential cost to this State of such electronic identification cards and any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

Sec. 25. 1. This section and ~~sections 1 to 5, inclusive, and 22~~ section 17.5 of this act become effective upon passage and approval.

2. ~~Sections 6 to 15, inclusive, 18 to 21, inclusive, and 23 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.~~

3. ~~Sections 16, 17 and 24 of this act become effective upon passage and approval for the purpose of amending state plans which provide medical assistance and on January 1, 2012, for all other purposes.~~

4. ~~Sections 1 to 5, inclusive, and 22 of this act expire by limitation on February 1, 2013.~~ Sections 1 to 17, inclusive, 18, 19, 20 and 22 to 24.7, inclusive, of this act become effective on July 1, 2011.

3. Section 21 of this act becomes effective on January 1, 2012.

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. 267 to Senate Bill No. 278 provides that a contract between an insurer and a provider of health care may be modified by the insurer after giving the provider 45 days written notice of the modification of the insurer's schedule of payments, including any changes to the fee schedule applicable to the provider's practice. The amendment also specifies how modifications may be made to a contract between an organization for dental care and a dentist.

It requires the Department of Health and Human Services to report certain rates of reimbursement for physicians for care provided pursuant to the State Plan for Medicaid and the Children's Health Insurance Program.

It exempts certain nonprofit entities from certain requirements concerning health insurance.

The amendment requires the Department to conduct a study of medical homes and of electronic identification cards containing information relating to health insurance.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 291.

Bill read second time.

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

Amendment No. 301.

"SUMMARY—Revises provisions governing operators of tanning establishments. (BDR 52-957)"

"AN ACT relating to tanning establishments; prohibiting an operator of a tanning establishment from allowing a person who is less than 18 years of age to use the tanning equipment of the establishment without **first identifying and** obtaining the written consent of the parent or guardian of the person; authorizing a parent or guardian to bring an action against an owner or operator of a tanning establishment who fails to **identify the parent or guardian and** obtain ~~such~~ **his or her** written consent; **providing that an owner or operator of a tanning establishment is not liable in such an action if the owner or operator complies with certain procedural requirements in good faith;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill prohibits an operator of a tanning establishment from allowing a person who is less than 18 years of age to use the tanning equipment of the establishment unless the operator first **identifies and** obtains the written consent of the parent or guardian of the person. Section 6 of this bill authorizes a parent or guardian to bring an action against an operator who allows a child of the parent or guardian to use the tanning equipment of the establishment and who does not first **identify and** obtain the written consent of the parent or guardian. **Section 6 provides that the owner or operator of a tanning establishment is not liable in such an action if the owner or operator identified and obtained the written consent of the parent or guardian in good faith and pursuant to the procedural requirements set forth in section 5.**

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Tanning equipment" means any device that emits ultraviolet radiation to tan human skin, including, without limitation, sunlamps, tanning booths and tanning beds.*

Sec. 4. *"Tanning establishment" means any premises, mobile unit, building or part of a building where access to tanning equipment is provided for a fee, membership dues or any other compensation.*

Sec. 5. 1. *An operator of a tanning establishment shall not allow a person who is less than 18 years of age to use tanning equipment unless ~~the~~ :*

(a) A parent or guardian of the person physically appears at the tanning establishment and produces a driver's license or other government-issued identification as evidence of his or her identity; and

(b) The operator of the tanning establishment ~~first~~ obtains the written consent of ~~the~~ the parent or guardian of the person ~~for~~, which must include a statement that he or she is a parent or guardian of the person and which expressly authorizes the person to use the tanning equipment of the tanning establishment.

2. The written consent of a parent or guardian obtained by an operator of a tanning establishment pursuant to subsection 1 expires 1 year after the date on which it is obtained and may be renewed by the parent or guardian.

3. A person qualified to operate the tanning equipment of the tanning establishment must be present at the tanning establishment at all times while a person who is less than 18 years of age is using the tanning equipment.

4. The operator of a tanning establishment shall maintain a copy of any written consent obtained from a parent or guardian of a person who is less than 18 years of age pursuant to this section for a period of not less than 1 year after the most recent use of the tanning equipment by the person.

Sec. 6. 1. A parent or guardian of a person who is less than 18 years of age may bring an action against an owner or operator of a tanning establishment who does not identify and obtain written consent from a parent or guardian of the person in the manner prescribed by subsection 1 of section 5 of this act.

2. ~~For~~ Except as otherwise provided in subsection 4, in an action brought pursuant to this section, if a parent or guardian of a person who is less than 18 years of age establishes that an owner or operator of a tanning establishment did not identify and obtain written consent from a parent or guardian of the person in the manner prescribed by subsection 1 of section 5 of this act, a court shall award the parent or guardian, in addition to costs and attorney's fees:

(a) For the first occurrence, \$2,000.

(b) For the second or a subsequent occurrence, \$4,000.

3. Each instance in which an owner or operator allows a person who is less than 18 years of age to use the tanning equipment of the tanning establishment without identifying and obtaining the consent of a parent or guardian of the person in the manner prescribed by subsection 1 of section 5 of this act constitutes a separate occurrence.

4. The owner or operator of a tanning establishment who, in good faith, complies with the requirements of subsection 1 of section 5 of this act is not liable in an action brought pursuant to this section.

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

Senator Halseth moved the adoption of the amendment.

Remarks by Senators Halseth, Lee and Copenig.

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

SENATOR HALSETH:

Amendment No. 301 to Senate Bill No. 291 imposes certain requirements on an operator of a tanning establishment before the operator may allow a person under the age of 18 to use tanning equipment.

A parent or guardian must physically appear at the tanning establishment and produce suitable identification. The parent or guardian must also sign a written consent verifying that the person signing is the parent or guardian of the minor and expressly authorizing the minor to use tanning equipment at the establishment.

An operator who does not identify a parent or guardian is subject to a civil action with specified damages, in addition to costs and attorney's fees.

An owner or operator who complies in good faith with the identification and consent provisions of the bill is not liable in a civil action.

SENATOR LEE:

Is the \$2,000 fine for the first occurrence a mandatory fine or can it be waived?

SENATOR HALSETH:

I would like to refer all questions regarding this bill to my colleague from Senate District No. 6.

SENATOR COPENING:

If that is a concern to you, I have no problem putting that language in there. It allows a parent to take a civil action against a tanning facility. If they did not want to take a civil action against the facility, they would not have to. It is their choice. If the court wanted to waive the judgment, they could do it.

SENATOR LEE:

Thank you, I appreciate it.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 292.

Bill read second time.

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

Amendment No. 272.

"SUMMARY—Revises provisions relating to insurance. (BDR 57-1074)"

"AN ACT relating to insurance; providing for the licensure and regulation of persons who sell or offer coverage under a policy of portable electronics insurance; providing a fee; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person is not authorized to engage in the business of transacting insurance unless the person is issued a license by the Commissioner of Insurance. **Sections 2-15** of this bill provide for the licensure and regulation of persons **, including certain persons who are not residents of this State,** who sell or offer coverage under a new limited line

of insurance, the coverage of portable electronics against the risk of loss, which provides coverage for the repair or replacement of portable electronics and which may cover portable electronics against loss, theft, inoperability due to mechanical failure, malfunction, accidental damage or other similar perils in accordance with the terms of the policy. A vendor who sells or offers coverage under a policy of portable electronics insurance must be licensed as a producer of insurance and pay certain fees. (NRS 680B.010, 680C.110) Existing law provides that a violation of certain provisions of the Nevada Insurance Code, including **sections 2-17** of this bill, is a misdemeanor.

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. ~~["Covered customer" means a customer who elects coverage under a policy of portable electronics insurance issued to a vendor.]~~
(Deleted by amendment.)

Sec. 4. *"Customer" means a person who acquires, by lease or purchase, portable electronics or services related to the use of portable electronics from a vendor.*

Sec. 4.3. *"Enrolled customer" means a customer who elects coverage under a policy of portable electronics insurance issued to a vendor.*

Sec. 4.5. *"Location" means any physical site within this State or any Internet website, call center or other similar site where a vendor transacts business with residents of this State.*

Sec. 5. *"Maintenance agreement" means a contract for a limited period that provides only for scheduled maintenance.*

Sec. 6. *"Portable electronics" means electronic devices that are portable in nature and their accessories.*

Sec. 7. 1. *"Portable electronics insurance" means insurance which provides coverage for the repair or replacement of portable electronics and which may cover portable electronics against loss, theft, inoperability due to mechanical failure, malfunction, accidental damage or other similar perils in accordance with the terms of the policy.*

2. *The term does not include:*

- (a) A service contract governed by chapter 690C of NRS;*
- (b) A maintenance agreement;*
- (c) A warranty;*
- (d) A policy of homeowners' insurance, renter's insurance or motor vehicle insurance; or*

(e) *A policy of property or casualty insurance for business and commercial risks.*

Sec. 7.5. "Supervising entity" means a business or entity that is a licensed insurer or producer of insurance.

Sec. 8. "Vendor" means a person who, directly or indirectly, engages in the business of:

1. The sale or lease of portable electronics by the vendor to a customer; or

2. The sale of a service related to the use of portable electronics by the vendor to a customer.

Sec. 9. "Warranty" means a warranty provided solely by a manufacturer, importer or seller of goods for which the manufacturer, importer or seller did not receive separate consideration and that:

1. Is not negotiated or separated from the sale of the goods;

2. Is incidental to the sale of the goods; and

3. Guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the goods.

Sec. 10. 1. A vendor shall not sell or offer coverage under a policy of portable electronics insurance unless the vendor holds a license as a producer of insurance in portable electronics insurance as a limited line issued by the Commissioner pursuant to NRS 683A.261 or 683A.271.

2. In addition to the information required pursuant to NRS 683A.251, an application for a license as a producer of insurance in portable electronics insurance must include:

(a) A schedule which identifies each location at which the vendor does business; and

(b) ~~If the vendor derives more than 50 percent of its revenue from the sale of portable electronics coverage, the name, residence address and other information required by the Commissioner for each officer, director and shareholder of record having beneficial ownership of 10 percent or more of any class of securities of the vendor registered under federal securities law; and~~

(c) ~~The location of the vendor's home office.~~ The physical address of the home office of the vendor.

3. ~~If the Commissioner issues to a vendor a license as a producer of insurance in portable electronics insurance, the vendor must, not less often than quarterly, submit a schedule which identifies each location at which the vendor does business.~~ A natural person who is designated by a vendor pursuant to paragraph (b) of subsection 2 of NRS 683A.251 is not required to be a principal, officer or employee of the vendor.

Sec. 10.5. The Commissioner may issue or renew a license as a producer of insurance in portable electronics insurance as a limited line pursuant to NRS 683A.261 or 683A.271 to an applicant who is not a resident of Nevada, including, without limitation, a resident of Canada:

1. Before July 1, 2014, if:

(a) The jurisdiction in which the applicant resides or in which the applicant maintains his or her principal place of business does not provide for the issuance of a license as a producer of insurance in portable electronics insurance as a limited line; and

(b) The applicant meets all other requirements for licensure.

2. On or after July 1, 2014, if:

(a) The jurisdiction in which the applicant resides or in which the applicant maintains his or her principal place of business does not provide for the issuance of a license as a producer of insurance in portable electronics as a limited line;

(b) The applicant is issued a license as a producer of insurance for property and casualty insurance in this State pursuant to NRS 683A.261; and

(c) The applicant meets all other requirements for licensure.

Sec. 11. 1. Notwithstanding any other provision of law, an employee or authorized representative of a vendor that holds a license as a producer of insurance in portable electronics insurance issued by the Commissioner pursuant to NRS 683A.261 or 683A.271 may, without a license issued by the Commissioner, sell or offer coverage under a policy of portable electronics insurance at any location at which the vendor does business if:

(a) The employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance only on behalf of, and under the supervision of, the vendor; and

(b) Before the employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance, he or she completes a program of training provided by the vendor pursuant to section 12 of this act.

2. An employee or authorized representative of a vendor who sells or offers coverage under a policy of portable electronics insurance pursuant to this section shall not advertise, represent or otherwise hold himself or herself out as a licensed producer of insurance ~~for engage in any other conduct for which a license or certificate is required pursuant to this title.~~ unless the person is licensed as a producer of insurance.

Sec. 12. 1. An authorized insurer may deliver or issue for delivery in this State a policy of portable electronics insurance as a group or master inland marine policy issued to a vendor. A vendor may provide coverage for portable electronics under the policy to customers who elect to enroll under the policy. The policy may be offered on a month-to-month or other periodic basis. Notwithstanding the provisions of any law to the contrary, each rate for a policy of portable electronics insurance must be filed with the Commissioner pursuant to chapter 686B of NRS.

2. An insurer that issues a group policy of portable electronics insurance to a vendor shall:

(a) Establish reasonable eligibility and underwriting standards for customers who elect to enroll under the vendor's policy of portable electronics insurance.

(b) Appoint a ~~business entity that is licensed as a producer of insurance to act as a~~ supervising ~~agency~~ entity to oversee the vendor's sales ~~for~~ and enrollment ~~and claims administration~~ activities under the vendor's policy of portable electronics insurance.

3. A supervising ~~agency~~ entity appointed pursuant to this section must develop and conduct a training program for the employees and authorized representatives of the vendor who sell or offer coverage under the vendor's policy of portable electronics insurance. The training program must include, without limitation, basic instruction concerning:

(a) The coverage that is available to customers who enroll under the vendor's policy of portable electronics insurance; and

(b) The disclosures required by section 13 of this act.

4. The supervising ~~agency~~ entity may provide the basic instruction required by subsection 3 in electronic form if the supervising ~~agency~~ entity provides supplemental training that is conducted and overseen in person by a licensed employee of the supervising ~~agency~~ entity.

5. The supervising ~~agency~~ entity shall ensure that each employee and authorized representative of a vendor completes the training program required by subsection 3 before selling or offering to sell coverage under the vendor's policy of portable electronics insurance.

Sec. 13. 1. A vendor shall make available to a prospective customer, at each location where the vendor sells or offers coverage under a policy of portable electronics insurance, a printed brochure or other written material concerning the coverage available under the policy of portable electronics insurance. The written material must:

(a) Disclose that coverage under a policy of portable electronics insurance may duplicate coverage already provided to the customer by a policy of property insurance or other source of coverage;

(b) State that the customer is not required to enroll for coverage under the vendor's policy of portable electronics insurance as a condition of the purchase or lease of any portable electronics or related services;

(c) Summarize the material terms of the coverage provided under the policy of portable electronics insurance, including:

(1) The identity of the insurer;

(2) The identity of the supervising ~~agency~~ entity;

(3) The amount of any applicable deductible and how it is to be paid;

(4) Benefits of the coverage; and

(5) Key terms and conditions of the coverage, including, without limitation, whether portable electronics may be repaired or replaced with a similar make and model that has been reconditioned or with nonoriginal manufacturer parts or equipment;

(d) Summarize the process for filing a claim, including a description of ~~any requirement.~~

~~(1) To~~ how to return portable electronics and the maximum fee applicable if the enrolled customer fails to comply with any equipment return requirements; and

~~(2) Relating to proof of loss; and~~

(e) State that the enrolled customer may cancel his or her enrollment for coverage under the policy of portable electronics insurance at any time and, in the event of such cancellation, the person paying the premium for the coverage will receive a refund of any applicable unearned premium.

2. If a customer elects to enroll in coverage under a policy of portable electronics insurance, the printed brochure or other written material may serve as a certificate of coverage if the material satisfies the requirements of subsection 1. ~~and includes a physical or electronic address at which the covered customer may obtain a copy of the group policy of portable electronics insurance.~~ A policy of portable electronics insurance, including the certificate of coverage of the policy, must be filed with the Commissioner not later than 15 days after the effective date of the policy.

Sec. 14. 1. If a customer purchases a policy of portable electronics insurance from a vendor or elects to enroll in coverage under the vendor's policy of portable electronics insurance, the vendor may bill and collect the charges for the portable electronics insurance coverage.

2. Any charge to the customer for portable electronics insurance coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services must be separately itemized on the customer's ~~invoice.~~ bill.

3. If portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor must clearly and conspicuously disclose to the customer that the ~~cost of the~~ portable electronics insurance coverage is included ~~in the price.~~ with the purchase of the portable electronics or related services.

4. A vendor which bills and collects charges for portable electronics insurance coverage on behalf of an insurer is not required to maintain such money in a segregated account if the vendor:

(a) Is authorized by the insurer to hold such money in an alternative manner; and

(b) Remits such amounts to the supervising ~~agency.~~ entity within 60 days after receipt.

↪ All money collected by a vendor from ~~an~~ an enrolled customer for the sale of portable electronics insurance shall be deemed to be held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. A vendor is entitled to receive compensation for billing and collection services.

Sec. 15. Notwithstanding any other provision of law:

1. Except as otherwise provided in this section, an insurer that issues a policy of portable electronics insurance may ~~cancel.~~ not terminate the

policy before the expiration of the agreed term of the policy ~~for otherwise change any term or condition of the policy if;~~ unless, not less than 30 days before the effective date of the ~~termination, the insurer provides notice to:~~

(a) The holder of the policy of portable electronics insurance; and
 (b) If the policy is a group policy issued to a vendor under which individual customers may elect to enroll for coverage, each ~~covered~~ enrolled customer.

2. An insurer shall not change any term or condition of a policy of portable electronics insurance more than once in any 6-month period. If the insurer changes a term or condition of a policy of portable electronics insurance, ~~pursuant to subsection 1,~~ the insurer shall, not less than 30 days before the effective date of the change, provide:

(a) The policyholder with a revised policy or endorsement; and
 (b) Each ~~covered~~ enrolled customer with a revised certificate of coverage, endorsement, brochure or other evidence of coverage which:

(1) Declares that the insurer has changed a term or condition of the policy which may affect the enrolled customer's coverage; and

(2) Provides a summary of the material changes.

3. An insurer may terminate ~~a covered~~ an enrolled customer's coverage under a vendor's policy of portable electronics insurance upon the discovery of fraud or material misrepresentation by the ~~covered~~ enrolled customer in obtaining the coverage or in presenting a claim thereunder if the insurer provides notice of the termination to the vendor and the ~~covered~~ enrolled customer within 15 days after discovery of the fraud or material misrepresentation.

4. An insurer may terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance if the enrolled customer fails to pay a premium and the insurer gives the enrolled customer not less than 10 days' notice of his or her failure to pay the premium.

5. An insurer may immediately terminate ~~a covered~~ an enrolled customer's coverage under a vendor's policy of portable electronics insurance:

(a) ~~For the covered customer's failure to pay a premium when due;~~
~~(b)~~ If the ~~covered~~ enrolled customer ceases to have an active service with the vendor; or

~~(c)~~ (b) If the ~~covered~~ enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the policy of portable electronics insurance and the insurer provides notice of termination to the customer within 30 calendar days after exhaustion of the limit. If the insurer fails to provide timely notice as required by this paragraph, the ~~covered~~ enrolled customer's coverage under the policy continues until the insurer provides notice of termination to the ~~covered~~ enrolled customer notwithstanding the exhaustion of the aggregate limit of liability.

~~[5.]~~ 6. A vendor or other holder of a group policy of portable electronics insurance shall not terminate ~~the covered~~ an enrolled customer's coverage under the policy unless, not less than 30 days before the effective date of the termination, the ~~holder~~ insurer provides notice to the ~~covered~~ enrolled customer of the termination of the policy and the effective date of termination. An insurer may authorize a vendor to provide notice to an enrolled customer on behalf of the insurer pursuant to this subsection.

~~[6.]~~ 7. Any notice that is required pursuant to this section must be in writing and be:

(a) Mailed or delivered to the ~~covered~~ enrolled customer, vendor or other policyholder at his or her last known address; or

(b) Sent by electronic mail or other electronic means in accordance with regulations adopted by the Commissioner to the ~~covered~~ enrolled customer, vendor or other policyholder at the electronic mail address of the ~~covered~~ enrolled customer, vendor or other policyholder last known by the insurer.

➡ An insurer or vendor who provides notice pursuant to this subsection must maintain proof of mailing or delivery in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service or an electronic record or other proof that the notice was sent.

Sec. 16. If a vendor or an employee or authorized representative of a vendor violates any provision of this chapter or an order or regulation of the Commissioner issued or adopted pursuant thereto, the Commissioner may, after notice and an opportunity for a hearing:

1. Impose an administrative fine ~~of not more than \$500~~ pursuant to NRS 683A.461 for each violation ~~for \$5,000~~ , which must not exceed \$50,000 in the aggregate; for such conduct;

2. Suspend a vendor's privilege of engaging in the sale or offering of coverage under a policy of portable electronics insurance at a particular location where the vendor does business;

3. Suspend or revoke the privilege of an employee or authorized representative of a vendor to sell or offer coverage under a policy of portable electronics insurance; or

4. Suspend or revoke the license issued by the Commissioner to the vendor as a licensed producer of insurance.

Sec. 17. The Commissioner may adopt such regulations as necessary to carry out the provisions of this chapter.

Sec. 18. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a

license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

(l) ***Portable electronics as a limited line.***

(m) Continuous care coverage, which includes health insurance, as set forth in paragraph (b), and may include insurance for workers' compensation.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than \$15 or deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of all applicable renewal fees, except for any fee required

pursuant to NRS 680C.110. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his or her license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where the resident producer of insurance principally conducts transactions under his or her license. The place of business may be in his or her residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which the licensee conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which the licensee conducts business as a producer of insurance or his or her business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 19. NRS 683A.291 is hereby amended to read as follows:

683A.291 1. An applicant for licensing in this state as a producer of insurance who was previously licensed for the same lines of authority in another state need not complete any education or examination if the applicant is currently licensed in that state or, if the application is received within 90 days after the cancellation of the license, the other state certifies that the applicant was in good standing at the time of cancellation. Alternatively, the

exemption is available if the records of the National Association of Insurance Commissioners show that the applicant is or was licensed and in good standing for the lines of authority requested.

2. An examination is not required for a producer of insurance who confines his or her activity to insurance categorized as limited line, credit, travel, **portable electronics**, baggage or fixed annuity, or covering vehicles leased for a short term.

3. A person licensed in another state who moves to this state and desires to become licensed as a resident producer of insurance with the benefit of the exemption provided in subsection 1 must apply for licensing within 90 days after establishing legal residence.

Sec. 20. Notwithstanding the provisions of sections 2 to 17, inclusive, of this act, a vendor is not required to be licensed as a producer of insurance limited to portable electronics insurance to sell or offer coverage under a policy of portable electronics insurance until 90 days after the Commissioner of Insurance makes available an application for such a license or October 1, 2011, whichever is later.

Sec. 21. This act becomes effective:

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

2. On October 1, 2011, for all other purposes.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 272 to Senate Bill No. 292 adds some definitions to the bill. It provides for licensure of a producer of insurance in portable electronics insurance who is not a resident of Nevada, including a resident of Canada.

It authorizes a policy of portable electronics insurance to be issued as a master inland marine policy. Each rate for a policy of electronics insurance must be filed with the Commissioner of Insurance.

It imposes limitations on cancellation or modification of a policy of portable electronic insurance.

Finally, the amendment increases the maximum aggregate potential administrative fine for violations of the provisions of the bill to \$50,000.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 313.

Bill read second time.

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

Amendment No. 302.

"SUMMARY—Revises certain provisions relating to energy.
(BDR 58-236)"

"AN ACT relating to energy; requiring the Nevada Energy Commissioner to prescribe minimum standards of energy efficiency for certain electrical devices; authorizing the Commissioner to charge and collect a fee from manufacturers of certain electrical devices for the costs of any tests to confirm that such electrical devices comply with the minimum standards of energy efficiency prescribed by the Commissioner; authorizing the Commissioner to impose administrative fines; requiring the Public Utilities Commission of Nevada, in evaluating a 3-year plan submitted by an electric utility, to give preference to certain measures and sources of electricity; ~~requiring an electric utility to include in its 3 year plan at least one scenario of supply and demand which maximizes the achievable net benefits from energy efficiency and conservation measures and programs; requiring the Commission to adopt regulations which include the opportunity for an electric utility to earn a return on investment from the implementation of energy efficiency and conservation programs equal to the return on investment earned by the utility from investment in alternative supply side resources;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Nevada Energy Commissioner to prepare a comprehensive state energy plan which includes the promotion of the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy. (NRS 701.190) Existing law also requires the Commissioner to adopt regulations for the conservation of energy in buildings and to adopt regulations establishing a minimum standard of energy efficiency for general purposes lights. (NRS 701.220, 701.260)

Section 1 of this bill requires the Commissioner to adopt regulations prescribing a minimum standard of energy efficiency for portable light fixtures and televisions and authorizes the Commissioner to prescribe a minimum standard of energy efficiency for any other electrical devices. In addition, **section 1** requires the Commissioner to adopt regulations establishing the procedures by which a manufacturer of an electrical device is required to: (1) demonstrate that the electrical device complies with the minimum standard of energy efficiency; (2) identify that the device complies with the minimum standard of energy efficiency; and (3) make available to the Commissioner samples of the device for the purpose of conducting tests to confirm that the device complies with the minimum standard of energy efficiency. **Section 1** authorizes the Commissioner to charge and collect a fee from the manufacturer of an electrical device for the cost of conducting tests to confirm that the device complies with the minimum standard of energy efficiency. **Section 1** also authorizes the Commissioner to impose an administrative fine on any manufacturer of an electrical device who does not comply with **section 1** or the regulations adopted pursuant thereto. Finally, **section 1** requires the Commissioner to make available to the public information concerning the minimum standards of energy efficiency prescribed by the Commissioner. **Section 5** of this bill requires the

Commissioner to adopt the regulations prescribing the minimum standards of energy efficiency on or before October 1, 2012.

~~[Section 2 of this bill requires an electric utility to include as part of its 3-year plan submitted to the Public Utilities Commission of Nevada a comparison of scenarios of the best combinations of supply to meet demands or the best methods to reduce demands, at least one of which must be a scenario in which the achievable net benefits from energy efficiency and energy conservation measures and programs are maximized.] Section 3 of this bill requires, rather than authorizes, the Commission, in evaluating the adequacy of a 3-year plan submitted by an electric utility, to give preference to those energy efficiency measures, purchasing decisions and sources of energy identified in the plan which provide the greatest economic and environmental benefits to the State and which provide levels of service that are adequate and reliable. [Section 4 of this bill requires that the regulations adopted by the Commission relating to energy efficiency and conservation programs include an opportunity for the electric utility to earn a return on investment from the implementation of such programs that is equal to the return on investment the electric utility could otherwise earn from investing in alternative supply side resources. Section 4 provides that the return on investment which may be earned by the electric utility must be based upon the performance of the energy efficiency and conservation programs.]~~

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 7, the Commissioner:

(a) Shall adopt regulations prescribing a minimum standard of energy efficiency for:

(1) Portable light fixtures; and

(2) Televisions.

(b) May adopt regulations prescribing a minimum standard of energy efficiency for any electrical device other than the electrical devices set forth in paragraph (a).

2. In adopting regulations pursuant to subsection 1, the Commissioner shall prescribe the minimum standard of energy efficiency for an electrical device based upon a determination that the standard of energy efficiency will serve to promote energy conservation in this State and will be cost-effective for consumers who purchase and use such electrical devices.

3. A regulation adopted pursuant to subsection 1 which establishes or amends a minimum standard of energy efficiency for an electrical device must not become effective until 1 year after the date on which the regulation is adopted.

4. The Commissioner shall adopt regulations establishing the procedures by which a manufacturer of an electrical device for which the

Commissioner has prescribed a minimum standard of energy efficiency pursuant to subsection 1 shall:

- (a) Demonstrate that the electrical device complies with the minimum standard of energy efficiency prescribed by the Commissioner;*
- (b) Identify conspicuously on the electrical device and on any packaging for the electrical device that the device complies with the minimum standard of energy efficiency prescribed by the Commissioner; and*
- (c) Make available to the Commissioner samples of the electrical device for the purpose of conducting tests to confirm that the device complies with the minimum standard of energy efficiency prescribed by the Commissioner.*

5. The Commissioner may:

- (a) Charge and collect a fee from the manufacturer of an electrical device for the cost of any test conducted by the Commissioner in accordance with the regulations adopted pursuant to paragraph (c) of subsection 4; and*
- (b) Impose an administrative fine on any manufacturer of an electrical device who does not comply with the provisions of this section or any regulation adopted pursuant thereto.*

6. The Commissioner shall make available to the public, free of charge, information concerning the minimum standards of energy efficiency for electrical devices prescribed by the Commissioner pursuant to this section and shall publish the information on the Internet website of the Commissioner.

7. The regulations adopted pursuant to this section do not apply to:

- (a) New electrical devices manufactured in this State and sold outside of this State;*
- (b) New electrical devices manufactured outside of this State and sold at wholesale in this State for final retail sale and use outside of this State; or*
- (c) New electrical devices designed expressly for installation and use in a recreational vehicle as that term is defined in NRS 482.101.*

8. As used in this section, "portable light fixture" means a movable electric light fixture that uses a plug-in power cord.

Sec. 2. NRS 704.741 is hereby amended to read as follows:

~~704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.~~

~~2. The Commission shall, by regulation:~~

~~(a) Prescribe the contents of such a plan, including, but not limited to, the methods or formulas which are used by the utility to:~~

- ~~(1) Forecast the future demands; and~~
- ~~(2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them; and~~

~~(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.~~

~~3. The Commission shall require the utility to include in its plan:~~

~~(a) An energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel and which includes, without limitation, the use of new solar thermal energy sources; and~~

~~(b) A comparison of a diverse set of scenarios of the best combination of sources of supply to meet the demands or the best methods to reduce the demands, which must include [at]:~~

~~(1) At least one scenario of low carbon intensity [.] ; and~~

~~(2) At least one scenario that maximizes the achievable net benefits from energy efficiency and energy conservation measures and programs.~~

~~4. The Commission shall require the utility to include in its plan a plan for construction or expansion of transmission facilities to serve renewable energy zones and to facilitate the utility in meeting the portfolio standard established by NRS 704.7821.~~

~~5. As used in this section:~~

~~(a) "Carbon intensity" means the amount of carbon by weight emitted per unit of energy consumed.~~

~~(b) "Renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers. (Deleted by amendment.)~~

Sec. 3. NRS 704.746 is hereby amended to read as follows:

704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. The Commission shall determine the parties to the public hearing on the adequacy of the plan. A person or governmental entity may petition the Commission for leave to intervene as a party. The Commission must grant a petition to intervene as a party in the hearing if the person or entity has relevant material evidence to provide concerning the adequacy of the plan. The Commission may limit participation of an intervener in the hearing to avoid duplication and may prohibit continued participation in the hearing by an intervener if the Commission determines that continued participation will unduly broaden the issues, will not provide additional relevant material evidence or is not necessary to further the public interest.

3. In addition to any party to the hearing, any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

4. After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to

improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers of the utility, associated with the following possible measures and sources of supply:

- (1) Improvements in energy efficiency;
- (2) Pooling of power;
- (3) Purchases of power from neighboring states or countries;
- (4) Facilities that operate on solar or geothermal energy or wind;
- (5) Facilities that operate on the principle of cogeneration or hydrogeneration;
- (6) Other generation facilities; and
- (7) Other transmission facilities.

5. The Commission ~~may~~ **shall** give preference to the measures and sources of supply set forth in paragraph (c) of subsection 4 that:

- (a) Provide the greatest economic and environmental benefits to the State;
- (b) Are consistent with the provisions of this section; and
- (c) Provide levels of service that are adequate and reliable.

6. The Commission shall:

- (a) Adopt regulations which determine the level of preference to be given to those measures and sources of supply; and
- (b) Consider the value to the public of using water efficiently when it is determining those preferences.

7. The Commission shall:

- (a) Consider the level of financial commitment from developers of renewable energy projects in each renewable energy zone, as designated pursuant to subsection 2 of NRS 704.741; and
- (b) Adopt regulations establishing a process for considering such commitments, including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

Sec. 4. ~~NRS 704.785 is hereby amended to read as follows:~~

~~704.785 1. The Commission shall adopt regulations authorizing an electric utility to recover an amount based on the measurable and verifiable effects of the implementation by the electric utility of energy efficiency and conservation programs approved by the Commission, which [:~~

~~(a) Must] must include:~~

~~[(1)] (a) The costs reasonably incurred by the electric utility in implementing and administering the energy efficiency and conservation programs; and~~

~~[(2)] (b) Any financial disincentives relating to other supply alternatives caused or created by the reasonable implementation of the energy efficiency and conservation programs; and~~

~~[(b) May include any financial incentives to support the promotion of the participation of the customers of]~~

~~(c) An opportunity for the electric utility [in the] to earn a return on investment from the implementation of energy efficiency and conservation programs that is equal to the return on investment the electric utility could otherwise earn from investing in alternative supply side resources. The return on investment which may be earned by the electric utility pursuant to this paragraph must be based upon the performance of the energy efficiency and conservation programs.~~

~~2. When considering whether to approve an energy efficiency or conservation program proposed by an electric utility as part of a plan filed pursuant to NRS 704.741, the Commission shall consider the effect of any recovery by the electric utility pursuant to this section on the rates of the customers of the electric utility.~~

~~3. The regulations adopted pursuant to this section must not:~~

~~(a) Affect the electric utility's incentives and allowed returns in areas not affected by the implementation of energy efficiency and conservation programs; or~~

~~(b) Authorize the electric utility to earn more than the rate of return authorized by the Commission in the most recently completed rate case of the electric utility.~~

~~4. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.~~ **(Deleted by amendment.)**

Sec. 5. The Nevada Energy Commissioner shall adopt the regulations required by section 1 of this act on or before October 1, 2012.

Sec. 6. 1. This section and sections 1 and 5 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

2. Sections 2, 3 and 4 of this act become effective on January 1, 2012.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 302 to Senate Bill No. 313 deletes the provision requiring a utility to include in its triennial plan filed with the Public Utilities Commission of Nevada at least one scenario in which the net benefits of a combination of energy efficiency and energy conservation are maximized.

It also deletes the provision that allows a utility an opportunity to earn a return on investment from energy efficiency and conservation programs that is equal to the return on investment earned from alternative supply side measures.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 314.

Bill read second time.

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

Amendment No. 273.

"SUMMARY—Revises various provisions relating to ~~residential~~ real property. (BDR 54-631)"

"AN ACT relating to ~~residential~~ real property; providing for the registration and regulation of asset management companies; providing for the permitting and regulation of employees and independent contractors of asset management companies; prohibiting a purchaser of residential property from voluntarily waiving or being required to waive his or her right to a disclosure form; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the licensure or registration and regulation of various professions in this State. (Title 54 of NRS) This bill provides for the registration, permitting and regulation of asset management companies and their employees and agents by the Real Estate Division of the Department of Business and Industry. Asset management companies provide management services for real property which is in foreclosure and which is owned by a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof or a governmental entity. Such companies manage the property, performing services such as securing the property by changing locks, removing trash and debris, cleaning the home and surrounding property, performing maintenance and repairs of homes and disposing of the personal property of homeowners left in homes which are in foreclosure and which the legal owner has deemed abandoned.

Section 23 of this bill sets forth the requirements an asset management company must meet to be registered in this State, including criminal background checks on all principals, partners, directors and officers of the company. **Section 24** of this bill requires asset management companies to carry sufficient insurance to cover any damage to ~~the home,~~ real property, any wrongful evictions ~~of homeowners~~ or any wrongful disposal of the personal property of a homeowner. ~~Section 28 of this bill imposes a \$2,000 application fee for registration as an asset management company, as well as a \$500 fee for the issuance of a certificate of registration and an annual fee of \$500 to renew the certificate of registration.~~ or a tenant of a homeowner. **Section 29** of this bill requires all employees or independent contractors of an asset management company to obtain a permit from the Division. ~~It~~ and undergo a criminal background check ~~and pay a one time fee of \$75.~~ at the expense of the employee or independent contractor.

Section 31 of this bill specifies the services an asset management company may provide and the steps an asset management company must take before it may dispose of the personal property of a homeowner. ~~It~~ or a tenant of a homeowner, including storage of the property for 30 days in a secure location and notifying the homeowner or the tenant in writing of the disposal and where the property may be reclaimed. **Section 32** of this bill makes it a misdemeanor for a person to operate an asset management company in this State without being registered with the Division or for an

employee or independent contractor of an asset management company to engage in asset management without a permit issued by the Division. **Section 33** of this bill makes it a misdemeanor for an asset management company or its agents to: (1) evict a ~~homeowner~~ **real property owner** without a court order while the ~~homeowner~~ **real property owner** still has time to redeem his or her ~~house~~ **real property**; (2) dispose of any personal property of a homeowner or a tenant of a homeowner except as provided in **section 31**; (3) seize ~~in a residence~~ **real property** that is not in foreclosure; (4) allow any work to be done ~~in a residence~~ **on real property** by a person who is not licensed to do that type of work or allow any work to be done ~~in a residence~~ **on real property** which requires a permit or an inspection unless the permit is obtained or inspection completed; (5) conduct any activities for which a real estate license is required without such a license; or (6) fail to provide the real property disclosure to any purchaser of a residence for which the asset management company has provided services.

Existing law requires a seller to complete and serve a purchaser of residential property with a disclosure form regarding the property, but allows a purchaser to waive his or her right to receive such a form. (NRS 113.130) **Section 34** of this bill prohibits a purchaser from waiving, or a seller from requiring a purchaser to waive, the purchaser's right to the disclosure form.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 33, inclusive, of this act.

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

Sec. 3. *"Administrator" means the Real Estate Administrator.*

Sec. 4. *"Asset management" means to oversee or maintain any real property, including, without limitation, any actions taken to preserve, restore or improve the value and to lessen the risk of damage to the property before a foreclosure sale.*

Sec. 5. *"Asset management company" means a person, limited-liability company, partnership, association or corporation which, for compensation and pursuant to a contractual agreement, power of attorney or other legal authorization, provides services in the maintenance, repair and preparation for liquidation of real property that is owned or secured by a mortgage or lien on the property for an obligation owned by or on behalf of:*

- 1. A bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary of such which is authorized to transact business in this State;*
- 2. A mortgage holding entity chartered by Congress; or*
- 3. A federal, state or local governmental entity.*

Sec. 6. *"Client" means a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary of such or governmental entity for whom an asset management company provides asset management.*

Sec. 7. *"Division" means the Real Estate Division of the Department of Business and Industry.*

Sec. 8. *"Foreclosure sale" means a sale of real property to enforce an obligation secured by a mortgage or lien on the property, including, without limitation, the exercise of a trustee's power of sale pursuant to NRS 107.080.*

Sec. 9. *"Homeowner" means the owner of record of a residence, including, without limitation, the owner of record of a residence in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded pursuant to NRS 14.010 or the notice of default and election to sell is recorded pursuant to NRS 107.080.*

Sec. 10. *"Mortgage banker" has the meaning ascribed to it in NRS 645E.100.*

Sec. 11. *"Mortgage broker" has the meaning ascribed to it in NRS 645B.0127.*

Sec. 11.3. *"Real property in foreclosure" includes, without limitation, a residence in foreclosure or commercial real property against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080*

Sec. 11.7. *"Real property owner" means the owner of record of real property, including, without limitation, a homeowner or an owner of real property in foreclosure.*

Sec. 12. *"Residence in foreclosure" means any residential real property consisting of ~~four~~ ^{one}:*

1. Not more than four family dwelling units, one of which the homeowner or a tenant of the homeowner occupies as his or her principal place of residence ~~and~~ ; or

2. A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units,

↪ against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080.

Sec. 13. *The provisions of this chapter do not apply to:*

1. A person who is a regular, full-time employee of a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof.

2. *A person who takes possession of property from a defendant in connection with a judicial proceeding for eminent domain brought pursuant to chapter 37 of NRS.*

Sec. 14. 1. *The Division shall administer the provisions of this chapter and may employ legal counsel, investigators and other professional consultants necessary to discharge its duties pursuant to this chapter.*

2. *An employee of the Division must not be employed by or have an interest in any business that manages residences in foreclosure or other assets.*

3. *An employee of the Division shall not act as an asset manager or as an agent for an asset management company.*

Sec. 15. *The Division shall adopt:*

1. *Regulations prescribing a standard of practice and code of ethics for registered asset management companies. The regulations must include, without limitation, provisions establishing the degree of care that must be exercised by a reasonably prudent registered asset management company.*

2. *Such other regulations as are necessary for the administration of this chapter.*

Sec. 16. 1. *The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically pursuant to title 59 of NRS with persons who are regulated pursuant to this chapter and with any other persons with whom the Division conducts business.*
~~*[The regulations may include, without limitation, provisions establishing fees to pay the costs of conducting business electronically with the Division.]*~~

2. *In addition to the provisions of NRS 719.280, if the Division conducts business electronically with a person and a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the Division may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 to satisfy the legal requirement.*

3. *The Division may refuse to conduct business electronically with a person who has failed to pay any money which the person owes to the Division.*

Sec. 17. 1. *In addition to any other remedy or penalty, the Division may impose an administrative fine against any person who knowingly:*

(a) *Engages or offers to engage in any activity for which a certificate of registration or permit or any other authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate of registration or permit or has not received the required authorization; or*

(b) *Assists or offers to assist another person in the commission of a violation described in paragraph (a).*

2. *If the Division imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine must not*

exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever is greater.

3. In determining the appropriate amount of the administrative fine, the Division shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Division deems to be relevant.

4. Before the Division may impose the administrative fine, the Division must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Division in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the provisions of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 18. 1. The Division shall maintain a record of:

(a) Persons whose applications for registration have been denied;

(b) Formal disciplinary proceedings and any investigations conducted by the Division which result in the initiation of those proceedings; and

(c) Rulings or decisions upon complaints filed with the Division.

2. Except as otherwise provided in this section and section 19 of this act, records kept in the office of the Division pursuant to this chapter are open to the public for inspection pursuant to regulations adopted by the Division. Except as otherwise provided in NRS 239.0115, the Division may keep confidential, unless otherwise ordered by a court any criminal and financial records of an asset management company or applicant for a certificate of registration.

Sec. 19. 1. Except as otherwise provided in this section and section 18 of this act, a complaint filed with the Division, all documents and other information filed with the Division relating to the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement entity, that is investigating a person who holds a certificate of registration or permit issued pursuant to this chapter.

2. The complaint or other document filed by the Division to initiate disciplinary action and all documents and information considered by the Division when determining whether to impose discipline are public records.

Sec. 20. 1. All ~~fees and~~ administrative fines received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund.

2. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.

Sec. 21. 1. The Attorney General shall render to the Division opinions upon questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, submitted to the Attorney General by the Division.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter.

Sec. 22. ~~If the Division imposes an administrative fine, for collects a fee for registering an asset management company or issuing or renewing a permit to engage in asset management,~~ the Division shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.

Sec. 23. 1. A person who wishes to be registered as an asset management company in this State must file a written application with the Division upon a form prepared and furnished by the Division ~~and pay the fee required pursuant to section 28 of this act.~~ An application must:

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the asset management company will conduct business within this State;

(b) State the name under which the applicant will conduct business as an asset management company;

(c) List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the asset management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person; and

(d) Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the asset management company as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. *Except as otherwise provided in this chapter the Division shall issue a certificate of registration to an applicant as an asset management company if:*

(a) The application is verified by the Division and complies with the requirements of this chapter.

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Submits satisfactory proof to the Division that he or she has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an asset management company in a manner which safeguards the interests of the general public.

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of asset management or any crime involving fraud, misrepresentation or moral turpitude.

(3) Has not made a false statement of material fact on his or her application.

(4) Has not had a professional license that was issued in this State or any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of application.

(5) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Administrator.

(c) The applicant certifies that he or she:

(1) Has a process in place to verify that each employee or independent contractor that provides services to the asset management company is the holder of a license in good standing in this State to perform the services for which the asset management company will use the independent contractor.

(2) Has a process in place to review the work of each independent contractor that provides services to the asset management company to ensure that those services are conducted in accordance with all applicable laws and regulations of this State.

(3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.

(d) The applicant submits proof that he or she possesses all business licenses and permits required to do business in this State.

Sec. 24. 1. *Before issuing any certificate of registration or annual renewal thereof, the Division shall require satisfactory proof that the asset management company:*

(a) Is covered by a policy of insurance written by an insurance company authorized to do business in this State which is sufficient to reimburse ~~homeowners~~ real property owners for, without limitation, any damage to ~~the residence~~ real property in foreclosure, the wrongful disposal of property or ~~the~~ wrongful eviction ; ~~of a homeowner~~ or

(b) Possesses and will continue to possess sufficient means to act as a self-insurer against that liability.

2. Every asset management company shall maintain the policy of insurance or self-insurance required by this section. The registration of every such asset management company is automatically suspended 10 days after receipt by the asset management company of a notice from the Division that the required insurance is not in effect, unless satisfactory proof of insurance is provided to the Division within that period.

3. Proof of insurance or self-insurance must be in such a form as the Division may require.

Sec. 25. 1. If an asset management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the asset management company.

2. As used in this section, "qualified employee" means:

(a) A director, officer, member, employee, manager or trustee of a partnership, corporation or limited-liability company designated by the partnership, corporation or limited-liability company to act on the behalf of the partnership, corporation or limited-liability company; or

(b) A person designated by a sole proprietorship who satisfies the requirements set forth in subsection 2 of section 23 of this act.

Sec. 26. 1. In addition to any other requirements set forth in this chapter an applicant for the issuance of a certificate of registration as an asset management company or a permit to engage in asset management shall:

(a) Include the social security number of the applicant in the application submitted to the Division.

(b) Submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate of registration or permit; or

(b) A separate form prescribed by the Division.

3. A certificate of registration or permit may not be issued or renewed by the Division pursuant to this chapter if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of

a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 27. A certificate of registration issued pursuant to this chapter expires each year on the date of its issuance, unless it is renewed. To renew the certificate of registration, the registrant must submit to the Division on or before the expiration date:

1. An application for renewal; and

2. ~~{The fee required to renew the certificate of registration pursuant to section 28 of this act; and~~

~~3. All information required to complete the renewal.~~

Sec. 28. ~~{1. A person must pay the following fee for the issuance or renewal of a certificate of registration as an asset management company:~~

~~(a) For the issuance of a certificate of registration, the applicant must pay an application fee of \$2,000 for the principal office and a fee of \$500 for the issuance of the initial registration.~~

~~(b) For the renewal of a certificate of registration, the applicant must pay a fee of \$500.~~

~~2. The following fees must be charged by and paid to the Division:~~

~~For each issuance of a duplicate registration or permit \$50~~

~~For each change in the name or location of a business 20~~

~~For each change in the name or business address of a holder of a permit 20} (Deleted by amendment.)~~

Sec. 29. 1. A person in this State who is employed by or is an independent contractor for an asset management company shall apply to the Division for a permit to engage in asset management.

2. An applicant for a permit must:

~~(a) Include a complete set of the fingerprints of the employee or independent contractor and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~(b) Pay a fee of \$75 for the investigation of the applicant;}~~ At his or her own expense;

(1) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(2) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal

Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(II) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken by a law enforcement agency or other authorized entity and directly forwarded by electronic or other means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; and

~~+(e)+~~ (b) Comply with all other requirements established by the Division for the issuance of a permit.

3. The Division may:

(a) Unless the applicant's fingerprints are forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (a) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Division deems necessary.

Sec. 30. 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a certificate of registration or permit, the Division shall deem the certificate of registration or permit to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the certificate of registration or permit by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate of registration or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a certificate of registration or permit that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the certificate of registration or permit stating that the holder of the certificate of registration or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 31. 1. Subject to the provisions of section 33 of this act, the services an asset management company may provide include, without limitation:

(a) Securing ~~for a residence~~ real property in foreclosure once it has been determined to be abandoned and all notice provisions required by law have been complied with;

(b) *Providing maintenance for ~~the residence~~ real property in foreclosure, including landscape and pool maintenance;*

(c) *Cleaning the interior or exterior of ~~the residence~~ real property in foreclosure;*

(d) *Providing repair or improvements for ~~the residence~~ real property in foreclosure; and*

(e) *Removing trash and debris from ~~the residence~~ real property in foreclosure and the surrounding property.*

2. *An asset management company may dispose of personal property abandoned on the premises of a residence in foreclosure or left on the premises after the eviction of a homeowner or a tenant of a homeowner without incurring civil or criminal liability in the following manner:*

(a) *The asset management company shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the homeowner or the tenant of the homeowner or his or her authorized representative rightfully claiming the property within that period. The asset management company is liable to the homeowner or the tenant of the homeowner only for the asset management company's negligent or wrongful acts in storing the property.*

(b) *After the expiration of the 30-day period, the asset management company may dispose of the property and recover his or her reasonable costs from the property or the value thereof if the asset management company has made reasonable efforts to locate the homeowner ~~or~~ or the tenant of the homeowner, has notified the homeowner or the tenant of the homeowner in writing of his or her intention to dispose of the property and 14 days have elapsed since the notice was given to the homeowner ~~or~~ or the tenant of the homeowner. The notice must be mailed to the homeowner or the tenant of the homeowner at the ~~homeowner's~~ present address of the homeowner or the tenant of the homeowner and, if that address is unknown, then at the ~~homeowner's~~ last known address ~~or~~ of the homeowner or the tenant of the homeowner.*

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

3. *Any dispute relating to the amount of the costs claimed by the asset management company pursuant to paragraph (a) of subsection 2 may be resolved using the procedure provided in subsection 7 of NRS 40.253.*

Sec. 32. 1. *It is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an asset management company without first obtaining a certificate of registration from the Division pursuant to section 23 of this act.*

2. *It is unlawful for an employee or independent contractor of an asset management company to engage in asset management without first obtaining a permit from the Division pursuant to section 29 of this act.*

3. *A person who violates a provision of this section is guilty of a misdemeanor.*

Sec. 33. 1. *It is unlawful for an asset management company or an employee, director, officer or agent of an asset management company to:*

(a) *Unless the asset management company is acting pursuant to a court order, evict a ~~homeowner~~ real property owner until after the time during which the ~~homeowner~~ real property owner may redeem the ~~residence~~ real property in foreclosure.*

(b) *Dispose of the personal property of a homeowner or a tenant of a homeowner except as provided in section 31 of this act.*

(c) *Seize ~~a home~~ real property for a client which is not ~~a residence~~ real property in foreclosure.*

(d) *Perform any repair, maintenance or renovation on the ~~residence~~ real property in foreclosure:*

(1) *Which is required to be performed by a person holding a license unless such repair, maintenance or renovation is done by a person licensed in this State to perform such repair, maintenance or renovation; or*

(2) *Which requires a permit or inspection by any governmental entity in this State, unless the permit is first obtained and the inspection is performed after completion.*

(e) *Conduct any activity for which a license is required pursuant to chapter 645 of NRS without first obtaining such a license.*

(f) *Fail to provide the disclosure form required pursuant to NRS 113.130 for a purchaser of a residence in foreclosure for which the asset management company or its employee, director, officer or agent has provided asset management.*

2. *A person who violates a provision of this section is guilty of a misdemeanor.*

Sec. 34. NRS 113.130 is hereby amended to read as follows:

113.130 1. Except as otherwise provided in ~~subsection~~ **subsection 2** : ~~and 3:~~

(a) At least 10 days before residential property is conveyed to a purchaser:

(1) The seller shall complete a disclosure form regarding the residential property; and

(2) The seller or the seller's agent shall serve the purchaser or the purchaser's agent with the completed disclosure form.

(b) If, after service of the completed disclosure form but before conveyance of the property to the purchaser, a seller or the seller's agent discovers a new defect in the residential property that was not identified on the completed disclosure form or discovers that a defect identified on the completed disclosure form has become worse than was indicated on the form, the seller or the seller's agent shall inform the purchaser or the purchaser's

agent of that fact, in writing, as soon as practicable after the discovery of that fact but in no event later than the conveyance of the property to the purchaser. If the seller does not agree to repair or replace the defect, the purchaser may:

- (1) Rescind the agreement to purchase the property; or
- (2) Close escrow and accept the property with the defect as revealed by the seller or the seller's agent without further recourse.

2. Subsection 1 does not apply to a sale or intended sale of residential property:

- (a) By foreclosure pursuant to chapter 107 of NRS.
- (b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.
- (c) Which is the first sale of a residence that was constructed by a licensed contractor.

(d) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

3. A purchaser of residential property may ***not*** waive any of the requirements of subsection 1. ~~Any such waiver is effective only if it is made in a written document that is signed by the purchaser and notarized.~~ ***A seller of residential property may not require a purchaser to waive any of the requirements of subsection 1 as a condition of sale or for any other purpose.***

4. If a sale or intended sale of residential property is exempted from the requirements of subsection 1 pursuant to paragraph (a) of subsection 2, the trustee and the beneficiary of the deed of trust shall, not later than at the time of the conveyance of the property to the purchaser of the residential property, provide written notice to the purchaser of any defects in the property of which the trustee or beneficiary, respectively, is aware.

Sec. 35. Section 26 of this act is hereby amended to read as follows:

Sec. 26. 1. In addition to any other requirements set forth in this chapter an applicant for the issuance of a certificate of registration as an asset management company or a permit to engage in asset management shall ~~+~~

~~(a) Include the social security number of the applicant in the application submitted to the Division.~~

~~(b) Submit~~ ***submit*** to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

- (a) The application or any other forms that must be submitted for the issuance or renewal of the certificate of registration or permit; or
- (b) A separate form prescribed by the Division.

3. A certificate of registration or permit may not be issued or renewed by the Division pursuant to this chapter if the applicant:

- (a) Fails to submit the statement required pursuant to subsection 1; or
- (b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 36. The Real Estate Division of the Department of Business and Industry shall, on or before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 37. 1. This section, sections 1 to ~~33~~ 34, inclusive, and section 36 of this act become effective:

- (a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and
- (b) On October 1, 2011, for all other purposes.

2. Section 35 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

- (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or
- (b) Are in arrears in the payment of the support of one or more children,
➔ are repealed by the Congress of the United States.

3. Sections 30 and 35 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

- (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or
- (b) Are in arrears in the payment of the support of one or more children,
➔ are repealed by the Congress of the United States.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 273 to Senate Bill No. 314 makes changes to various definitions regarding real property asset management.

It deletes provisions relating to certain fees payable to the Real Estate Division. It substitutes the term "real property" for the term "a residence" throughout the bill.

An applicant for a permit to work for an asset management company must submit fingerprints to the Division.

The amendment authorizes an asset management company to dispose of property left behind by a tenant as part of a foreclosure proceeding.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 328.

Bill read second time.

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

Amendment No. 268.

"SUMMARY—Revises provisions governing the payment and collection of wages and other benefits. (BDR 53-108)"

"AN ACT relating to compensation; exempting creative professionals from requirements relating to compensation for overtime; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires employers to pay an employee compensation for overtime, but exempts certain kinds of employees, including employees who are employed in a bona fide professional capacity. (NRS 608.018)

This bill revises the definition of "professional" to include creative professionals, as described in federal law, **who are not employees of a contractor** within the kinds of employees who are exempt from the overtime requirement.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to ~~law~~ :

1. An employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, 645G and 656A of NRS.

2. A creative professional as described in 29 C.F.R. § 541.302 ~~is~~ who is not an employee of a contractor as that term is defined in NRS 624.020.

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

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 268 to Senate Bill No. 328 amends the definition of a "creative professional" to include a person who is not an employee of a contractor, as the term "contractor" is defined in NRS 624.020. This bill makes Nevada statute consistent with the term "creative professional" as described in federal law.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 340.

Bill read second time.

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

Amendment No. 327.

"SUMMARY—Revises provisions relating to programs to increase public awareness of health care information. (BDR 40-663)"

"AN ACT relating to public health; requiring hospitals and surgical centers for ambulatory patients to report certain information relating to physicians who perform surgical procedures; requiring the Department of Health and Human Services to post on an Internet website certain information relating to physicians who perform surgical procedures; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 2 of this bill require hospitals and surgical centers for ambulatory patients to report certain data concerning the names of physicians who perform surgical procedures and other data relating to those surgical procedures to the programs to increase public awareness of health care information. **Section 3** of this bill requires the Department of Health and Human Services to post that information on an Internet website. Existing law authorizes the Department to seek injunctive relief or civil penalties against facilities that violate the reporting requirements. (NRS 439A.300, 439A.310)

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

Section 1. NRS 439A.220 is hereby amended to read as follows:

439A.220 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) Inpatients and outpatients of each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;

(b) The quality of care provided by each hospital in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to NRS 439A.230;

(c) How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~and~~

(e) *For each hospital, the name of each physician who performed a surgical procedure in the hospital and the total number of surgical procedures performed by the physician, reported by diagnosis-related group ~~if~~ if the information is available and by principal diagnosis, principal surgical procedure and secondary surgical procedure; and*

(f) Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 2. NRS 439A.240 is hereby amended to read as follows:

439A.240 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the surgical centers for ambulatory patients in this State. The program must be designed to assist consumers with comparing the quality of care provided by the surgical centers for ambulatory patients in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) The charges imposed on outpatients by each surgical center for ambulatory patients in this State as reported in the forms submitted pursuant to NRS 439A.250;

(b) The quality of care provided by each surgical center for ambulatory patients in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to NRS 439A.250;

(c) How consistently each surgical center for ambulatory patients follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each surgical center for ambulatory patients, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~and~~

(e) *For each surgical center for ambulatory patients, the name of each physician who performed a surgical procedure in the surgical center for ambulatory patients and the total number of surgical procedures performed by the physician, reported by type of medical treatment, principal diagnosis ~~and~~ and, if the information is available, by principal surgical procedure and secondary surgical procedure; and*

(f) Any other information relating to the charges imposed and the quality of the services provided by the surgical centers for ambulatory patients in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

Sec. 3. NRS 439A.270 is hereby amended to read as follows:

439A.270 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to NRS 439A.220 and 439A.240. The information must:

(a) Include, for each hospital in this State, the ~~total~~ :

(1) **Total** number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; **and**

(2) **Name of each physician who performed a surgical procedure in the hospital and the total number of surgical procedures performed by each physician in the hospital, reported for the most frequent surgical procedures that the Department determines are most useful for consumers;**

(b) Include, for each surgical center for ambulatory patients in this State, the ~~total~~ :

(1) **Total** number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers; **and**

(2) **Name of each physician who performed a surgical procedure in the surgical center for ambulatory patients and the total number of surgical procedures performed by each physician in the surgical center for ambulatory patients, reported for the most frequent surgical procedures that the Department determines are most useful for consumers;**

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

- (1) Geographic location of each hospital;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;

(d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:

- (1) Geographic location of each surgical center for ambulatory patients;
 - (2) Type of medical diagnosis; and
 - (3) Type of medical treatment;
 - (e) Be presented in a manner that allows a person to view and compare the information separately for:
 - (1) The inpatients and outpatients of each hospital; and
 - (2) The outpatients of each surgical center for ambulatory patients;
 - (f) Be readily accessible and understandable by a member of the general public;
 - (g) Include the annual summary of reports of sentinel events prepared pursuant to paragraph (d) of subsection 1 of NRS 439.840; and
 - (h) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:
 - (1) Useful to consumers;
 - (2) Nationally recognized; and
 - (3) Reported in a standard and reliable manner.
2. The Department shall:
- (a) Publicize the availability of the Internet website;
 - (b) Update the information contained on the Internet website at least quarterly;
 - (c) Ensure that the information contained on the Internet website is accurate and reliable;
 - (d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;
 - (e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital;
 - (f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and
 - (g) Upon request, make the information that is contained on the Internet website available in printed form.
3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

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. 327 revises Senate Bill No. 340 by clarifying that certain data may only be reported if it is available. This addresses the differences in the data that is reported and available for inpatient and outpatient treatment and services.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 347.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 347.

"SUMMARY—~~Authorizes the issuance of a subpoena to compel the production of certain financial records as part of an investigation of the exploitation of an older person.~~ Confers the powers of a peace officer upon certain employees of the Aging and Disability Services Division of the Department of Health and Human Services for certain purposes. (BDR ~~15-1075~~)" 23-1075)"

"AN ACT relating to older persons; ~~authorizing the issuance of a subpoena to compel the production of certain financial records and other documents in an investigation of the exploitation of an older person under certain circumstances;~~ conferring the powers of a peace officer upon certain employees of the Aging and Disability Services Division of the Department of Health and Human Services for certain purposes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain persons who have reasonable cause to believe that an older person has been abused, neglected, exploited or isolated to report the abuse, neglect, exploitation or isolation of the older person to the Aging and Disability Services Division of the Department of Health and Human Services, or a local office thereof, a police department, sheriff's office or a county's office for protective services. (NRS 200.5093) The exploitation of an older person consists of wrongfully depriving the older person of the ownership, use, benefit or possession of his or her money, assets or property. (NRS 200.5092) ~~This bill authorizes the Administrator of the Division or the executive head of an office or department that is investigating a report of the exploitation of an older person to issue an administrative subpoena to compel the production of financial records or other documents relating to the older person which are in the possession of a bank or other financial institution, savings and loan association, thrift company or credit union.~~ Section 4 of this bill confers upon employees of the Division, as designated by the Administrator of the Division, the powers of a peace officer when performing duties relating to investigations of reports of abuse, neglect, exploitation or isolation of older persons or vulnerable persons.

Section 5 of this bill designates as category II peace officers employees of the Division, as designated by the Administrator of the Division, when performing duties relating to investigations of reports of abuse, neglect, exploitation or isolation of older persons or vulnerable persons.

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

Section 1. [Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

~~If the Aging and Disability Services Division of the Department of Health and Human Services or a local office thereof, a police department or sheriff's office, or a county office for protective services investigates a report of the exploitation of an older person made pursuant to NRS 200.5093, the Administrator of the Division or the executive head of the department or office may issue a subpoena to compel the production of financial records or other documents relating to the older person by a:~~

~~1. Financial institution subject to the provisions of any chapter of title 55 of NRS;~~

~~2. Savings and loan association subject to the provisions of chapter 673 of NRS;~~

~~3. Thrift company subject to the provisions of chapter 677 of NRS; or~~

~~4. Credit union subject to the provisions of chapter 678 of NRS.]~~

(Deleted by amendment.)

Sec. 2. [NRS 200.5092 is hereby amended to read as follows:

200.5092 As used in NRS 200.5091 to 200.50995, inclusive, ~~and~~
~~section 1 of this act~~, unless the context otherwise requires:

1. "Abuse" means willful and unjustified:

(a) Infliction of pain, injury or mental anguish on an older person or a vulnerable person; or

(b) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person.

2. "Exploitation" means any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to:

(a) Obtain control, through deception, intimidation or undue influence, over the older person's or vulnerable person's money, assets or property with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his or her money, assets or property; or

(b) Convert money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his or her money, assets or property.

➡ As used in this subsection, "undue influence" does not include the normal influence that one member of a family has over another.

3. "Isolation" means willfully, maliciously and intentionally preventing an older person or a vulnerable person from having contact with another person by:

(a) Intentionally preventing the older person or vulnerable person from receiving visitors, mail or telephone calls, including, without limitation, communicating to a person who comes to visit the older person or vulnerable person or a person who telephones the older person or vulnerable person that the older person or vulnerable person is not present or does not want to meet with or talk to the visitor or caller knowing that the statement is false, contrary to the express wishes of the older person or vulnerable person and intended to prevent the older person or vulnerable person from having contact with the visitor; or

(b) Physically restraining the older person or vulnerable person to prevent the older person or vulnerable person from meeting with a person who comes to visit the older person or vulnerable person.

➡ The term does not include an act intended to protect the property or physical or mental welfare of the older person or vulnerable person or an act performed pursuant to the instructions of a physician of the older person or vulnerable person.

4. "Neglect" means the failure of:

(a) A person who has assumed legal responsibility or a contractual obligation for caring for an older person or a vulnerable person or who has voluntarily assumed responsibility for his or her care to provide food, shelter, clothing or services which are necessary to maintain the physical or mental health of the older person or vulnerable person; or

(b) An older person or a vulnerable person to provide for his or her own needs because of inability to do so.

5. "Older person" means a person who is 60 years of age or older.

6. "Protective services" means services the purpose of which is to prevent and remedy the abuse, neglect, exploitation and isolation of older persons. The services may include investigation, evaluation, counseling, arrangement and referral for other services and assistance.

7. "Vulnerable person" means a person 18 years of age or older who:

(a) Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or

(b) Has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living. **(Deleted by amendment.)**

Sec. 3. [NRS 200.50984 is hereby amended to read as follows:

200.50984 1. Notwithstanding any other statute to the contrary, the local office of the Aging and Disability Services Division of the Department of Health and Human Services and a county's office for protective services, if one exists in the county where a violation is alleged to have occurred, may for the purpose of investigating an alleged violation of NRS 200.5091 to 200.50995, inclusive, ~~and section 1 of this act~~ inspect all records pertaining

to the older person on whose behalf the investigation is being conducted, including, but not limited to, that person's medical and financial records.

2. Except as otherwise provided in this subsection~~—[,] and section 1 of this act,~~ if a guardian has not been appointed for the older person, the Aging and Disability Services Division or the county's office for protective services shall obtain the consent of the older person before inspecting those records. If the Aging and Disability Services Division or the county's office for protective services determines that the older person is unable to consent to the inspection, the inspection may be conducted without his or her consent. Except as otherwise provided in this subsection~~—[,] and section 1 of this act,~~ if a guardian has been appointed for the older person, the Aging and Disability Services Division or the county's office for protective services shall obtain the consent of the guardian before inspecting those records. If the Aging and Disability Services Division or the county's office for protective services has reasonable cause to believe that the guardian is abusing, neglecting, exploiting or isolating the older person, the inspection may be conducted without the consent of the guardian, except that if the records to be inspected are in the personal possession of the guardian, the inspection must be approved by a court of competent jurisdiction. **[(Deleted by amendment.)]**

Sec. 4. NRS 289.240 is hereby amended to read as follows:

289.240 **1.** Forensic technicians and correctional officers employed by the Division of Mental Health and Developmental Services of the Department of Health and Human Services at facilities for offenders with mental disorders have the powers of peace officers when performing duties prescribed by the Administrator of the Division.

2. Employees of the Aging and Disability Services Division of the Department of Health and Human Services, as designated by the Administrator of the Division, have the powers of peace officers when performing duties pursuant to NRS 200.5091 to 200.50995, inclusive.

Sec. 5. NRS 289.470 is hereby amended to read as follows:

289.470 "Category II peace officer" means:

1. The Bailiff of the Supreme Court;
2. The bailiffs of the district courts, justice courts and municipal courts whose duties require them to carry weapons and make arrests;
3. Constables and their deputies whose official duties require them to carry weapons and make arrests;
4. Inspectors employed by the Nevada Transportation Authority who exercise those powers of enforcement conferred by chapters 706 and 712 of NRS;
5. Parole and probation officers;
6. Special investigators who are employed full-time by the office of any district attorney or the Attorney General;
7. Investigators of arson for fire departments who are specially designated by the appointing authority;
8. The assistant and deputies of the State Fire Marshal;

9. The brand inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by chapter 565 of NRS;

10. The field agents and inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by NRS 561.225;

11. Investigators for the State Forester Firewarden who are specially designated by the State Forester Firewarden and whose primary duties are related to the investigation of arson;

12. School police officers employed by the board of trustees of any county school district;

13. Agents of the State Gaming Control Board who exercise the powers of enforcement specified in NRS 289.360, 463.140 or 463.1405, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;

14. Investigators and administrators of the Division of Compliance Enforcement of the Department of Motor Vehicles who perform the duties specified in subsection 2 of NRS 481.048;

15. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles who perform the duties specified in subsection 3 of NRS 481.0481;

16. Legislative police officers of the State of Nevada;

17. The personnel of the Capitol Police Division of the Department of Public Safety appointed pursuant to subsection 2 of NRS 331.140;

18. Parole counselors of the Division of Child and Family Services of the Department of Health and Human Services;

19. Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in the State of Nevada or by a department of juvenile justice services established by ordinance pursuant to NRS 62G.210 whose official duties require them to enforce court orders on juvenile offenders and make arrests;

20. Field investigators of the Taxicab Authority;

21. Security officers employed full-time by a city or county whose official duties require them to carry weapons and make arrests;

22. The chief of a department of alternative sentencing created pursuant to NRS 211A.080 and the assistant alternative sentencing officers employed by that department;

23. Criminal investigators who are employed by the Secretary of State;
~~and~~

24. The Inspector General of the Department of Corrections and any person employed by the Department as a criminal investigator ~~and~~; and

25. Employees of the Aging and Disability Services Division of the Department of Health and Human Services, as designated by the Administrator of the Division, when performing duties pursuant to NRS 200.5091 to 200.50995, inclusive.

Senator Wiener moved the adoption of the amendment.

Remarks by Senators Wiener and Kieckhefer.

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

SENATOR WIENER:

The amendment deletes the provisions in the bill regarding administrative subpoenas. Instead, it confers certain powers of a category II peace officer—including the ability to seek a warrant—upon employees of the Aging and Disability Services Division.

Such employees must be designated by the Administrator of the Division, and their powers are expressly for the purposes of performing investigations into reports of abuse, neglect, and exploitation of older and vulnerable persons.

SENATOR KIECKHEFER:

Thank you, Mr. President. I am trying to understand exactly what the powers of a peace officer are. I know you were trying to take out subpoena powers. I am concerned that this might be a powerful authority for a person to have.

SENATOR WIENER:

The bill addresses the problem of social workers who find what they believe is financial abuse or violation of seniors and vulnerable people. They are frustrated because, when they take their records to law enforcement, law enforcement often does not feel compelled to obtain a warrant from a judge. The State social workers would like to use administrative subpoena powers to go into the financial records to prove abuse. However, the Committee was concerned about Constitutional questions because these State workers would be using subpoena powers to conduct a search rather than a warrant. There was a suggestion that if the Division had a peace officer, then that peace officer would have the authority to do what law enforcement has not been doing for them. If this peace officer were able to present the case regarding abuse of seniors and the vulnerable to a judge, then this person would be able to access the records with a warrant.

SENATOR KIECKHEFER:

Are there other powers besides the ability to get a warrant that a peace officer would have?

SENATOR WIENER:

I do not know what the scope of authority is for a Peace Officer 2, but I know the intention of this is that the designation of Peace Officer 2 was for the express purpose of obtaining warrants to get information to prove their cases.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 351.

Bill read second time.

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

Amendment No. 496.

"SUMMARY—Revises provisions governing disciplinary action against contractors. (BDR 54-225)"

"AN ACT relating to contractors; authorizing the State Contractors' Board to take disciplinary action against a contractor for nonpayment of taxes, fees or unemployment compensation contributions under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the licensing and regulation of contractors by the State Contractors' Board. (Chapter 624 of NRS) **Section 1** of this bill authorizes the Board to take certain actions against a contractor if the Board receives written notice from the Department of Taxation or the Department of Employment, Training and Rehabilitation regarding the contractor and of the ~~existence~~ amount of a lien against the contractor for nonpayment of taxes or fees or nonpayment of unemployment compensation contributions. Specifically, the Board, after notice and hearing, may: (1) suspend the license of the contractor until the lien expires, is released or is otherwise discharged; (2) require the contractor to file a bond with the Board; (3) require the contractor to obtain a performance bond and a payment bond; ~~and~~ (4) take certain other disciplinary action against the contractor ~~if~~; **and (5) recover all costs of the hearing from the contractor. Section 1 also provides that such written notice creates a rebuttable presumption of the validity of the lien described in the notice.** Sections 4 and 6 of this bill require the Executive Director of the Department of Taxation and the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation, respectively, within 5 business days after ~~receiving~~ receiving written notice of the recording of specified documentation and the acquisition of a lien against a contractor, to notify the Board of the name and license number of the contractor and the amount of the lien and also to notify the Board ~~when~~ after receiving written notice that the lien ~~expires, is~~ has expired, has been released or ~~is~~ has been otherwise discharged.

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

Section 1. Chapter 624 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Board receives written notice regarding a contractor and of the ~~existence~~ amount of a lien against ~~the~~ the contractor from the Executive Director of the Department of Taxation pursuant to section 4 of this act or from the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation pursuant to section 6 of this act, the Board, after notice and hearing, may:

~~1-1~~ (a) Suspend the license of the contractor until the lien expires, is released or is otherwise discharged;

~~2-1~~ (b) Require the contractor to file a bond or establish a cash deposit, subject to the terms and conditions applicable to other such bonds or cash deposits that may be required by the Board pursuant to subsection 6 of NRS 624.270;

~~3-1~~ (c) Require the contractor, before commencing work on any construction project, to obtain a performance bond and a payment bond, subject to the terms and conditions applicable to other such bonds that may be required by the Board pursuant to subsection 8 of NRS 624.270; ~~and~~

~~4.7~~ *(d) Take such other disciplinary action against the contractor as is authorized by NRS 624.300.* ~~4.7~~ *and*

(e) Recover all costs of the hearing from the contractor.

2. A written notice received by the Board pursuant to subsection 1 creates a rebuttable presumption of the validity of the lien described in the notice.

Sec. 2. NRS 624.750 is hereby amended to read as follows:

624.750 1. It is unlawful for a person to commit any act or omission described in subsection 1 of NRS 624.3012, subsection 2 of NRS 624.3013, NRS 624.3014 or subsection 1, 3 or 7 of NRS 624.3016.

2. Unless a greater penalty is otherwise provided by a specific statute, any person who violates subsection 1, NRS 624.305, subsection 1 of NRS 624.700 or NRS 624.720 or 624.740:

(a) For a first offense, is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000, and may be further punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense, is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$2,000 nor more than \$4,000, and may be further punished by imprisonment in the county jail for not more than 1 year.

(c) For the third or subsequent offense, is guilty of a category E felony and shall be punished by a fine of not less than \$5,000 nor more than \$10,000 and may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

3. It is unlawful for a person to receive money for the purpose of obtaining or paying for services, labor, materials or equipment if the person:

(a) Willfully fails to use that money for that purpose by failing to complete the improvements for which the person received the money or by failing to pay for any services, labor, materials or equipment provided for that construction; and

(b) Wrongfully diverts that money to a use other than that for which it was received.

4. Unless a greater penalty is otherwise provided by a specific statute, any person who violates subsection 3:

(a) If the amount of money wrongfully diverted is \$1,000 or less, is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$2,000 nor more than \$4,000, and may be further punished by imprisonment in the county jail for not more than 1 year.

(b) If the amount of money wrongfully diverted is more than \$1,000, is guilty of a category E felony and shall be punished by a fine of not less than \$5,000 nor more than \$10,000, and may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

5. Imposition of a penalty provided for in this section is not precluded by any disciplinary action taken by the Board against a contractor pursuant to

the provisions of NRS 624.300 to 624.305, inclusive ~~††~~ , *and section 1 of this act.*

Sec. 3. NRS 624.965 is hereby amended to read as follows:

624.965 1. A violation of any provision of NRS 624.900 to 624.965, inclusive, or any regulation adopted by the Board with respect to contracts for work concerning a residential pool or spa by a contractor constitutes cause for disciplinary action pursuant to NRS 624.300.

2. It is unlawful for a person to violate any provision of NRS 624.900 to 624.965, inclusive.

3. Any person who violates any provision of NRS 624.900 to 624.965, inclusive:

(a) For a first offense, is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000, and may be further punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense, is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$2,000 nor more than \$4,000, and may be further punished by imprisonment in the county jail for not more than 1 year.

(c) For the third or subsequent offense, is guilty of a class E felony and shall be punished by a fine of not less than \$5,000 nor more than \$10,000 and may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

4. The imposition of a penalty provided for in this section is not precluded by any disciplinary action taken by the Board against a contractor pursuant to the provisions of NRS 624.300 to 624.305, inclusive ~~††~~ , *and section 1 of this act.*

Sec. 4. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If the Department, pursuant to NRS 360.473, files a certificate in the office of any county recorder against a contractor for any unpaid tax or fee and thereby acquires a lien against the real and personal property of the contractor in the county, ~~[pursuant to NRS 360.420,]~~ the Executive Director shall, within 5 business days ~~††~~ after receiving written notice from the county recorder that the certificate has been recorded, notify the State Contractors' Board in writing of the name and license number of the contractor and the amount of the lien, including interest and penalties. The ~~[notification]~~ written notice provided to the State Contractors' Board must include a copy of the certificate that was ~~[filed with]~~ recorded and returned by the county recorder ~~††~~ if the county recorder returned a copy of the recorded certificate to the Department.*

2. *The Executive Director shall notify the State Contractors' Board in writing within 5 business days after receiving any written notice from the county recorder that the lien ~~[expires, is]~~ has expired, has been released or ~~[is]~~ has been otherwise discharged.*

3. *As used in this section, "contractor" has the meaning ascribed to it in NRS 624.020.*

Sec. 5. NRS 375A.305 is hereby amended to read as follows:

375A.305 1. The tax imposed by NRS 375A.100 becomes a lien upon the gross estate of the decedent on the date of death and remains as such until the tax, interest and penalties owed to the State are paid or the lien is otherwise discharged.

2. If the tax is not paid when due, the person who had possession of the property of the gross estate on the date of death of the decedent is personally liable for the tax. If the person who is liable for the tax transfers property of the gross estate to a bona fide purchaser or holder of a security interest, the lien imposed by subsection 1 attaches at the moment of the transfer to all of the property of the person who is liable for the tax including property the person acquires after the transfer, except the property which is transferred to a bona fide purchaser or a holder of a security interest. The lien does not attach to any property transferred to a bona fide purchaser or a holder of a security interest but it attaches to the consideration received for the property by the person who is liable for the tax.

3. If the lien is not extinguished or otherwise released or discharged, it expires 10 years after the date a determination of deficiency is issued if, within that period, no notice of the lien has been recorded or filed as provided in NRS 360.450.

4. Except as otherwise provided in this section, the provisions of NRS 360.420 to 360.560, inclusive, *and section 4 of this act* apply to the lien.

Sec. 6. Chapter 612 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If judgment is entered by a district court in favor of the Unemployment Compensation Service and against a contractor in the amount of any unpaid contributions, interest and forfeit provided by this chapter and an abstract of judgment or a copy thereof is recorded in the office of any county recorder, the Administrator shall, within 5 business days ~~of~~ after receiving written notice from the county recorder that the abstract of judgment or a copy thereof has been recorded, notify the State Contractors' Board in writing of the name and license number of the contractor and the amount of the lien against the real and personal property of the contractor in the county which, pursuant to NRS 612.635, was created by the recording of the abstract of judgment. ~~The notification~~ written notice provided to the State Contractors' Board must include a copy of the abstract of judgment that was ~~filed with~~ recorded and returned by the county recorder ~~if~~ if the county recorder returned a copy of the recorded abstract of judgment to the Administrator.

2. The Administrator shall notify the State Contractors' Board in writing within 5 business days after receiving any written notice from the county recorder that the lien ~~expires, is~~ has expired, has been released or ~~is~~ has been otherwise discharged.

3. As used in this section, "contractor" has the meaning ascribed to it in NRS 624.020.

Sec. 7. NRS 612.645 is hereby amended to read as follows:

612.645 1. In all proceedings under NRS 612.625 to 612.640, inclusive, **and section 6 of this act**, the Unemployment Compensation Service ~~shall be~~ is authorized to act in its name on behalf of the State of Nevada.

2. No costs or filing fees ~~shall~~ **may** be charged to the State of Nevada in any proceedings brought under any provision of NRS 612.625 to 612.640, inclusive, **and section 6 of this act** nor ~~shall~~ **may** any bond or undertaking be required of the State of Nevada, either in proceedings in the district court or on appeal to the Supreme Court.

Sec. 8. This act becomes effective on July 1, 2011.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 496 to Senate Bill No. 351 requires the State Contractors' Board to take certain action against a licensed contractor when the Board receives written notice specifying the license number of the contractor and the amount of a lien placed against the contractor by the Department of Taxation or the Employment Security Division.

A written notice received by the Board from the Department of Taxation creates a rebuttable presumption of the validity of the lien.

The Board may, after notice and hearing, recover all costs of a hearing held by the Board in connection with any action based on the lien.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 356.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 346.

"SUMMARY—Establishes the crime of stolen valor. (BDR 15-999)"

"AN ACT relating to crimes; establishing the crime of stolen valor; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Stolen Valor Act of 2005 prohibits a person from falsely representing himself or herself, verbally or in writing, to have been awarded certain military decorations or awards. A person who violates this provision may be fined, imprisoned for not more than 6 months or both fined and imprisoned. (18 U.S.C. § 704(b)) The United States Court of Appeals for the Ninth Circuit recently held that the Stolen Valor Act is facially invalid pursuant to the First Amendment to the Constitution of the United States and is therefore unconstitutional. The Ninth Circuit Court found that the Act as currently drafted restricts free speech rights, but the Court suggested that the statute could be modified into a constitutional anti-fraud statute. (*United States v. Alvarez*, 617 F.3d 1198, 1212, 1217 (9th Cir. 2010)) The

Court noted that to prove that a person is liable for fraud, it must be shown that the person knowingly made a false representation of fact to intentionally mislead another person and successfully misled the other person through such false representation. (*United States v. Alvarez*, 617 F.3d 1198, 1211 (9th Cir. 2010) (citing *Ill. ex rel. Madigan v. Telemarketing Assocs., Inc.*, 538 U.S. 600, 620 (2003)))

Existing Nevada law prohibits a person from willfully wearing the badge, button, insignia or rosette of any military order or of any secret order or society, or from using any such item to obtain aid, assistance or any other benefit or advantage, if the person is not entitled to wear or use any such items. (NRS 205.410) This bill repeals existing Nevada law and provides that a person commits the crime of stolen valor if the person knowingly, with the intent to mislead or defraud and with the intent to obtain some benefit or something of monetary value, misleads or defrauds another person by committing various acts concerning the false representation of himself or herself with relation to military service.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not knowingly, with the intent to mislead or defraud:

(a) Make any false representation of military service, including, without limitation, falsely representing his or her current or former military status, claiming that he or she served in the Armed Forces of the United States, a reserve component thereof or the National Guard, or that he or she served in a combat zone;

(b) Make any such false representation with the intent to obtain employment, be elected or appointed to public office or obtain something of monetary value; and

(c) Mislead or defraud another person through such false representation and obtain employment, be elected or appointed to public office or obtain something of monetary value.

2. A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely represent himself or herself by wearing any military decoration or medal authorized by Congress for the Armed Forces of the United States, any service medal or badge awarded to members of such forces, any ribbon, button or rosette of any such badge, decoration or medal, or any colorable imitation of such items;

(b) Make such false representation with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false representation and obtain something of monetary value.

3. A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely represent himself or herself, verbally or in writing, to have been awarded any military decoration or medal authorized by Congress for

the Armed Forces of the United States, any service medal or badge awarded to members of such forces, any ribbon, button or rosette of any such badge, decoration or medal, or any colorable imitation of such items;

(b) Make such false representation with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false representation and obtain something of monetary value.

4. A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely claim, verbally or in writing, to be or to have been a member of any elite United States Special Operations Command (USSOCOM) of the Armed Forces of the United States, any of its component units or the predecessors of any such units by wearing or displaying the distinctive emblem, badge or pin thereof;

(b) Make such false claims with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false claims and obtain something of monetary value.

5. A person shall not knowingly, with the intent to mislead or defraud:

(a) Forge, counterfeit or falsely alter any military document of any military service of the United States, including, without limitation, a certificate of discharge or a military identification card or badge;

(b) Use for any purpose, unlawfully possess, display or exhibit any such false document with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through the use of any such false document and obtain something of monetary value.

6. A person who violates any provision of this section is guilty of the crime of stolen valor. A person who violates:

(a) Subsection 1 is guilty of a misdemeanor.

(b) Subsection 2, except as otherwise provided in subsection 7 or 8, is guilty of a misdemeanor.

(c) Subsection 3, except as otherwise provided in subsection 7 or 8, is guilty of a misdemeanor.

(d) Subsection 4 is guilty of a misdemeanor.

(e) Subsection 5 is guilty of a gross misdemeanor.

7. A person who violates subsection 2 or 3 by wearing or falsely representing himself or herself to have been awarded a Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star or Purple Heart, or any replacement or duplicate medal for any such medal as authorized by law, is guilty of a gross misdemeanor.

8. A person who violates subsection 2 or 3 by wearing or falsely representing himself or herself to have been awarded a Medal of Honor is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 2. NRS 205.410 is hereby repealed.

TEXT OF REPEALED SECTION

205.410 Improper use of insignia.

Every person who shall willfully wear the badge, button, insigne or rosette of any military order or of any secret order or society, or any similitude thereof; or who shall use any such badge, button, insigne or rosette to obtain aid or assistance, or any other benefit or advantage, unless the person shall be entitled to so wear or use the same under the constitution, bylaws, rules and regulations of such order or society, shall be fined not more than \$500.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Amendment No. 346 to Senate Bill No. 356 simply clarifies that "something of value" used throughout the bill must be "something of value."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 367.

Bill read second time.

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

Amendment No. 215.

"SUMMARY—Requires certain health care practitioners to communicate certain information to the public. (BDR 54-625)"

"AN ACT relating to health care practitioners; requiring that advertisements for health care services include certain information; requiring certain health care practitioners to communicate certain information to the public; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~This bill, which is patterned after legislation recently enacted in California, requires certain health care practitioners to communicate the practitioner's name, type of state granted practitioner license and highest level of academic degree to each of the practitioner's patients by: (1) providing such information in writing at a patient's initial office visit; (2) prominently displaying such information in an area of the practitioner's office that is visible to patients; or (3) both providing such information in writing and prominently displaying such information. If a health care practitioner chooses to disclose such required information by providing the information in writing at a patient's initial office visit, the information must conform to a certain format. Additionally, a health care practitioner who provides information regarding health care services on an Internet website that is directly controlled or administered by the practitioner or his or her office personnel must prominently display the required information regarding the practitioner's name, license and degree on the Internet website.~~ It requires that advertisements for health care services include certain information regarding the qualifications of certain health care practitioners to whom

the advertisement pertains, including information regarding any applicable licensure or board certification held by a health care practitioner. Such advertisements also must not include any deceptive or misleading information regarding a health care practitioner. This bill further requires certain health care practitioners who provide health care services in this State to: (1) communicate their specific licensure to all current and prospective patients; and (2) display in their office a writing that clearly identifies the type of license they hold, in a size that is visible and apparent to all current and prospective patients. A health care practitioner must comply with such advertising and patient disclosure requirements in each office in which the health care practitioner practices. This bill also exempts certain health care practitioners from ~~disclosing~~ such ~~required information to patients.~~ advertising and patient disclosure requirements.

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. Except as otherwise provided in subsection 1, a health care practitioner shall communicate his or her name, type of state-granted practitioner license and highest level of academic degree to every patient by using one or both of the following methods:~~

~~(a) Providing such information in writing at a patient's initial office visit.~~

~~(b) Prominently displaying such information in an area of his or her office that is visible to patients.~~

~~2. A health care practitioner who chooses to disclose the information required pursuant to this section in the manner set forth in paragraph (a) of subsection 1 shall present such information in at least 24 point type or font in the following format:~~

~~HEALTH CARE PRACTITIONER INFORMATION~~

~~1. Name and license~~

~~2. Highest level of academic degree~~

~~3. Board certification (ABMS)~~

~~3. A health care practitioner who provides information regarding health care services on an Internet website that is directly controlled or administered by the health care practitioner or his or her office personnel shall prominently display the information required pursuant to this section on the Internet website.~~

~~4-1~~ **2:**

(a) An advertisement for health care services that names a health care practitioner must identify the type of license held by the health care practitioner and must not contain any deceptive or misleading information.

(b) An advertisement for health care services that includes the name of a physician or an osteopathic physician must disclose the name of the board by which the physician or osteopathic physician is licensed or certified. The

advertisement must not include a statement that a physician or osteopathic physician is "board certified" unless the board is:

(1) A specialty board of the American Board of Medical Specialties or the American Osteopathic Association, or a board with equivalent requirements that is approved by the licensing authority which issues a license to practice medicine or osteopathic medicine in this State to the physician or osteopathic physician; or

(2) A board that requires a postgraduate training program which provides complete training in the specialty or subspecialty of the physician or osteopathic physician and which is approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.

(c) A health care practitioner who provides health care services in this State must conspicuously post and affirmatively communicate his or her specific licensure to all current and prospective patients. The health care practitioner shall display in his or her office a writing that clearly identifies the type of license held by the health care practitioner. The writing must be of sufficient size to be visible and apparent to all current and prospective patients.

(d) A health care practitioner who practices in more than one office shall comply with the requirements set forth in this section in each office in which he or she practices.

2. The provisions of this section do not apply to the following health care practitioners:

(a) A person who provides professional medical services to enrollees of a health care service plan that exclusively contracts with a single medical group in a specific geographic area to provide or arrange for professional medical services for the enrollees of the plan.

(b) A person who works in a health facility ~~for medical laboratory.~~

(c) A practitioner of respiratory care licensed under chapter 630 of NRS.

(d) A hearing aid specialist or an apprentice to a hearing aid specialist licensed under chapter 637A of NRS.

(e) A veterinarian or other person licensed under chapter 638 of NRS.

(f) A marriage and family therapist, clinical professional counselor, or intern to a marriage and family therapist or clinical professional counselor licensed under chapter 641A of NRS.

(g) A social worker licensed under chapter 641B of NRS.

(h) A person who works in or is licensed to operate, conduct, issue a report from or maintain a medical laboratory under chapter 652 of NRS.

~~§.7~~ 3. As used in this section:

(a) "Advertisement" means any printed, electronic or oral communication or statement that names a health care practitioner in relation to the practice, profession or institution in which the health care practitioner is employed, volunteers or otherwise provides health care services. The term includes, without limitation, any business card,

letterhead, patient brochure, electronic mail, Internet website, audio or video transmission and any other communication or statement used in the course of business.

(b) "Deceptive or misleading information" means any information that falsely describes or misrepresents the profession, skills, training, expertise, education, board certification or licensure of a health care practitioner.

(c) "Health care practitioner" means ~~for~~ any person ~~licensed to practice one of the health professions regulated~~ who engages in acts related to the treatment of human ailments or conditions and who is subject to licensure or regulation by this title.

~~((b))~~ (d) "Health facility" has the meaning ascribed to it in NRS 439A.015.

~~((c))~~ (e) "Medical laboratory" has the meaning ascribed to it in NRS 652.060.

(f) "Osteopathic physician" has the meaning ascribed to it in NRS 633.091.

(g) "Physician" has the meaning ascribed to it in NRS 630.014.

Sec. 2. This act becomes effective on January 1, 2012.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 215 to Senate Bill No. 367 requires that advertisements for health care services include certain information. An advertisement that names a health care practitioner must identify the type of license held and must not contain any deceptive or misleading information.

The advertisement must disclose the board that licenses the practitioner and must not state that the practitioner is "board certified" unless certain conditions are satisfied.

A health care practitioner must conspicuously post and affirmatively communicate the practitioner's specific licensure to all patients. The practitioner shall display in the practitioner's office a writing that clearly identifies the type of license held by the practitioner and the writing must be of sufficient size to be visible and apparent to all patients.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 377.

Bill read second time.

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

Amendment No. 339.

"SUMMARY—Establishes provisions authorizing public-private partnerships for certain projects. (BDR 22-297)"

"AN ACT relating to public-private partnerships; authorizing a public agency to enter into a public-private partnership for certain projects; setting forth requirements for such public-private partnerships; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth standards and requirements for the public procurement of goods and services and for public works projects. (Chapters 332, 333, 334 and 338 of NRS) **Section 8** of this bill provides an alternative to current standards and requirements by authorizing the State and certain local governments to enter into public-private partnerships. **Sections 7 and 9** of this bill provide that a public-private partnership is a contract entered into by a private partner and the State or a local government under which the private partner assumes responsibility for: (1) planning, designing, financing, constructing, equipping, improving, maintaining ~~the~~ or operating ~~for acquiring rights of way for~~ a project related to a museum, or any portion thereof, but where the State or local government retains ownership of the project; or (2) providing services that a public agency is authorized to provide. **Sections 9-15** of this bill set forth the requirements for entering into a public-private partnership, including the solicitation and consideration of proposals, requirements for and authority of private partners, and the financing of the public-private partnership, and provide authority to carry out certain activities relating to the public-private partnership.

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

Section 1. Title 22 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 15, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Local government" has the meaning ascribed to it in NRS 354.474.*

Sec. 4. *"Private partner" means a person with whom a public agency enters into a public-private partnership.*

Sec. 5. *"Project" means ~~the~~*

~~Any~~ any structure, facility, undertaking or system related to a museum which a public agency is authorized to plan, construct, design, finance, improve, equip, operate ~~the~~ or maintain, for acquire the rights of way for, or any combination thereof, including, without limitation:

~~(a) Land and interests therein;~~

~~(b) Buildings;~~

~~(c) Equipment;~~

~~(d) Water systems;~~

~~(e) Sewer systems;~~

~~(f) Drainage and flood control systems;~~

~~(g) Hospitals;~~

~~(h) Jails;~~

~~(i) Schools;~~

~~(j) Libraries;~~
~~(k) Museums;~~
~~(l) Highways, streets and sidewalks; and~~
~~(m) Furnishings, appurtenances and other items financed in connection with paragraphs (a) to (l), inclusive.~~
~~2. Any services that a public agency is authorized to provide.~~

Sec. 6. "Public agency" means:

1. This State or any agency of this State; or
2. Any local government of this State.

Sec. 7. "Public-private partnership" means a contract entered into by a public agency and one or more private partners under which the private partner assumes responsibility for a project or any portion thereof.

Sec. 8. A public agency may enter into a public-private partnership with one or more private partners. A public-private partnership must set forth fully the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the public agency and private partner.

Sec. 9. 1. A public agency may do such things as are necessary and appropriate to carry out a project, including, without limitation:

(a) Plan, design, finance, construct, improve, equip, maintain, operate and make such other improvements to existing projects as may be necessary and appropriate to accommodate, develop and own the project.

(b) Determine the allowable uses of and the goals, standards, specifications and criteria of the project.

(c) Enter into contracts or other agreements with any private entity, any public agency, another state or the Federal Government for the project.

(d) Retain legal, financial, technical and other consultants to assist the public agency concerning the public-private partnership.

(e) Secure financial and other assistance for the project.

(f) Apply for, accept and expend money from any lawful source, including, without limitation, any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out the public-private partnership.

(g) Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the public agency to carry out the public-private partnership.

(h) Pay any compensation to which a private partner is entitled, pursuant to the terms of the public-private partnership, upon the termination of the public-private partnership.

2. Any project described in ~~subsection 1 of~~ section 5 of this act, whether planned, designed, financed, constructed, improved, equipped, maintained or operated by the public agency or a private partner, must be and remain:

- (a) A public use;

- (b) *A public facility; and*
- (c) *Owned by the public agency.*

Sec. 10. 1. ~~44~~ Except as otherwise provided in subsection 3, a public-private partnership entered into pursuant to this chapter must be awarded through one or more solicitations that must include, without limitation, requests for qualifications, the creation of a short list of qualified proposers, requests for proposals, negotiations and best and final offers.

2. *For any solicitation in which the public agency issues a request for qualifications, request for proposals or similar solicitation for a public-private partnership, the public agency may determine which factors it will consider and the relative weight of those factors in the evaluation process for the project in order to obtain the best value for the public agency.*

3. The public agency shall consider any unsolicited proposal which the public agency receives during the period that the public agency is receiving requests for qualifications.

4. The public agency may reimburse an unsuccessful bidder for a portion of the cost of preparing a proposal or best and final offer, or both. If the public agency intends to make such a reimbursement, the public agency shall set forth the terms and conditions of the reimbursement in the request for qualifications or request for proposals for the project.

Sec. 11. 1. Except as otherwise provided in paragraph (d) of subsection 2, the provisions of chapters 332, 333, 334 and 338 of NRS ~~408.337 and 408.357 and subsection 1 of NRS 408.3884~~ do not apply to a public private partnership entered into pursuant to the provisions of this chapter.

2. *To be eligible to be a private partner in connection with a public-private partnership, a private partner must:*

(a) *Obtain a performance bond and payment bond as the public agency may require;*

(b) *Obtain insurance covering general liability and liability for errors and omissions;*

(c) *Not have been found liable for breach of contract with respect to a previous contract with the public agency, other than a breach for legitimate cause; and*

(d) *If applicable to the project, not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, ~~338.1475~~ or 338.1475. ~~for 408.333.~~*

3. *A private partner is not required to hold the licenses and certifications required to undertake the work for the project as a condition of eligibility to be a private partner, but must ensure that any work that requires a license and certification is performed by persons that possess the required licenses and certifications.*

Sec. 12. 1. *A public-private partnership may, as determined by the public agency, be financed:*

(a) By the private partner using its own money or obtaining money in any lawful manner for that entity.

(b) By the issuance of revenue bonds or notes of the public agency which are payable from and secured by:

(1) Revenues from the public-private partnership, including, without limitation, any user fees and payments established, due and collected;

(2) Payments from the public agency to the private partner pursuant to the public private partnership;

(3) Payments from the private partner;

(4) Guarantees or other forms of financial assistance from the private partner or any other person;

(5) Any grants, donations or other sources of money, if use of the money for the purpose of paying and securing the payment of the principal of and interest on those bonds or notes is consistent with and not prohibited by the instrument, law or regulation under which the money is received; or

(6) Any combination thereof.

↪ *Any bonds or notes authorized by this paragraph are special, limited obligations of the public agency payable solely from the revenues specifically pledged to the payment of those obligations, and shall never be a debt of the State under Section 3 of Article 9 of the Nevada Constitution.*

(c) By the issuance of revenue bonds or notes of the public agency, to finance the project directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the public agency and the private partner for the purpose of securing the bonds or notes and providing for their payment. Any bonds or notes issued under this paragraph must be solely payable from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the public agency pursuant to the public-private partnership. Any bonds or notes as authorized by this paragraph are special, limited obligations of the public agency payable solely from the revenues specifically pledged to the payment of those obligations, and shall never be a debt of the State under Section 3 of Article 9 of the Nevada Constitution.

(d) With legally available money from any other source or from user fees.

(e) By any combination of paragraphs (a) to (d), inclusive.

2. *A public-private partnership entered into pursuant to this chapter does not create a debt for the purposes of Section 3 of Article 9 of the Nevada Constitution.*

Sec. 13. *Information obtained by or disclosed to the public agency during the procurement or negotiation of a public-private partnership may be kept confidential until the public-private partnership is executed, except that the public agency may exempt from release any proprietary*

information obtained by or disclosed to the public agency during the procurement or negotiation.

Sec. 14. *The public agency may acquire, condemn or hold real property and related appurtenances under fee title, lease, easement, dedication or license for the public-private partnership. The public agency may grant to a private partner a lease, easement, operating agreement, license, permit or right of entry for such real property and related appurtenances and such grant and use shall be deemed for all purposes:*

- 1. A public use; and*
- 2. A public facility.*

Sec. 15. *The public agency may include authority in a public-private partnership or otherwise authorize a private partner to remove any encroachments or relocate any utility from the right-of-way of the project.*

Sec. 16. NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate or portion of real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit or as a residence, or both, the leasehold interest, possessory interest, beneficial interest or beneficial use of the lessee or user of the property is subject to taxation to the extent the:

- (a) Portion of the property leased or used; and
- (b) Percentage of time during the fiscal year that the property is leased by the lessee or used by the user, in accordance with NRS 361.2275,
 ➔ can be segregated and identified. The taxable value of the interest or use must be determined in the manner provided in subsection 3 of NRS 361.227 and in accordance with NRS 361.2275.

2. Subsection 1 does not apply to:

- (a) Property located upon a public airport, park, market or fairground, or any property owned by a public airport, unless the property owned by the public airport is not located upon the public airport and the property is leased, loaned or otherwise made available for purposes other than for the purposes of a public airport, including, without limitation, residential, commercial or industrial purposes;
- (b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;
- (c) Property of any state-supported educational institution, except any part of such property located within a tax increment area created pursuant to NRS 278C.155;
- (d) Property leased or otherwise made available to and used by a natural person, private association, private corporation, municipal corporation, quasi-municipal corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior;

(e) Property of any Indian or of any Indian tribe, band or community which is held in trust by the United States or subject to a restriction against alienation by the United States;

(f) Vending stand locations and facilities operated by persons who are blind under the auspices of the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, whether or not the property is owned by the federal, state or a local government;

(g) Leases held by a natural person, corporation, association, municipal corporation, quasi-municipal corporation or political subdivision for development of geothermal resources, but only for resources which have not been put into commercial production;

(h) The use of exempt property that is leased, loaned or made available to a public officer or employee, incident to or in the course of public employment;

(i) A parsonage owned by a recognized religious society or corporation when used exclusively as a parsonage;

(j) Property owned by a charitable or religious organization all, or a portion, of which is made available to and is used as a residence by a natural person in connection with carrying out the activities of the organization;

(k) Property owned by a governmental entity and used to provide shelter at a reduced rate to elderly persons or persons having low incomes;

(l) The occasional rental of meeting rooms or similar facilities for periods of less than 30 consecutive days; or

(m) The use of exempt property to provide day care for children if the day care is provided by a nonprofit organization.

(n) Any lease, easement, operating agreement, license ~~for~~ or permit ~~for~~ right of entry for any exempt property granted by a governmental entity pursuant to section 14 of this act.

3. Taxes must be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and, if unpaid, are recoverable by the county in the proper court of the county.

Sec. 17. 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. 339 to Senate Bill No. 377 limits the projects authorized under this bill to museums; and specifies that the State or local government shall consider any unsolicited proposal for a public-private partnership that it receives during the period that the State or local government is receiving requests for qualifications.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 384.

Bill read second time.

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

Amendment No. 254.

"SUMMARY—Authorizes the governing body of a local government to adopt procedures for the sale of naming rights to certain public facilities. (BDR 28-172)"

"AN ACT relating to public facilities; authorizing the governing body of a local government to adopt procedures for the sale of the naming rights to ~~to a park, recreational facility or other public facility~~ certain parks, recreational facilities and other public facilities owned by the local government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners in a county whose population is 400,000 or more (currently Clark County) to adopt, by ordinance, procedures for the sale of naming rights relating to a shooting range that is owned by the county. (NRS 244.30701) This bill authorizes the governing body of a local government (including counties, cities, towns, school districts and general improvement districts) , with limited exceptions, to adopt, by ordinance, procedures for the sale of the naming rights to a park, recreational facility or other public facility owned by the local government.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~The~~ Except as otherwise provided in subsection 2, the governing body of a local government may adopt, by ordinance, procedures for the sale of naming rights to a park, recreational facility or other public facility that is owned by the local government, including, without limitation, the sale of naming rights to:

(a) Buildings, improvements, facilities, features, fixtures and sites located within the boundaries of the park, recreational facility or other public facility; and

(b) Activities, events and programs held at the park, recreational facility or other public facility.

2. In adopting an ordinance pursuant to subsection 1, a governing body shall not authorize the sale of naming rights to any park, recreational facility or other public facility which is:

(a) Subject to a lease agreement authorizing the lessee to sell such naming rights; or

(b) Currently named after a person of historical significance.

3. As used in this section:

(a) *"Local government" means any political subdivision of this State, including, without limitation, a county, city, town, school district, general improvement district or other district which performs a governmental function.*

(b) *"Park" means real property and any improvements made thereon that are designed to serve the cultural, leisure, recreational and outdoor needs of natural persons.*

(c) *"Public facility" means any facility, including, without limitation, real or personal property, which is owned by a local government.*

(d) *"Recreational facility" means real and personal property and improvements to real property for athletic, cultural and leisure activities and all appurtenances or customary facilities and uses associated therewith.*

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

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 254 to Senate Bill No. 384 clarifies that when adopting an ordinance regarding naming rights, a governing body shall not authorize the sale of naming rights to any park, recreational facility or other public facility which is subject to a lease agreement authorizing the lessee to sell such naming rights (such as the Reno Aces ballpark) or that is currently named after a person of historical significance.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 385.

Bill read second time.

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

Amendment No. 338.

"SUMMARY—Grants power to local governments to perform certain acts or duties which are not prohibited or limited by statute. (BDR 20-170)"

"AN ACT relating to local government; authorizing counties and cities, with limited exceptions, to exercise the powers necessary for the effective operation of county and city government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

In 1868, Judge John F. Dillon of the Iowa Supreme Court established a common-law rule of statutory interpretation known as Dillon's Rule, which limits the powers of local governments. (*Merriam v. Moody's Ex'rs*, 25 Iowa 163 (Iowa 1868)) Under Dillon's Rule, a local government is authorized to exercise only those powers which are: (1) expressly granted; (2) necessarily or fairly implied in or incident to the powers expressly granted; or

(3) essential to the accomplishment of the declared purposes of the local government.

Under existing law, county commissioners are authorized to exercise only those powers which are expressly granted and powers that are necessarily implied to carry out express powers. (*Sadler v. Board of County Comm'rs*, 15 Nev. 39, 42 (1880)) **Sections 1-7** of this bill authorize a board of county commissioners, with limited exceptions, to exercise all powers needed for the effective operation of county government, even if the power to perform these acts is neither express nor implied, so long as the power is not expressly prohibited or limited by constitutional or statutory provisions or granted to another entity.

Under existing law, a city government is authorized to exercise only those powers expressly granted by the charter or laws creating the city, and the necessary means of employing those powers. (*Tucker v. Mayor of Virginia City*, 4 Nev. 20, 26 (1868)) **Sections 8-21** of this bill authorize city governments, whether created by general law or charter, to exercise all powers needed for the effective operation of city government, with limited exceptions, even if the power to perform these acts is neither express nor implied, so long as the power is not expressly prohibited or limited by constitutional or statutory provisions or granted to another entity.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *It is expressly declared as the intent of the Legislature to grant a board of county commissioners the powers necessary for the effective operation of county government.*

Sec. 3. 1. *The rule of law that any doubt as to the existence of a power of a board of county commissioners must be resolved against its existence is abrogated.*

2. *Any doubt as to the existence of a power of a board of county commissioners must be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.*

Sec. 4. 1. *The rule of law that a board of county commissioners can exercise only powers:*

(a) Expressly granted by statute;

(b) Necessarily or fairly implied in or incident to powers expressly granted; and

(c) Indispensable to the declared purposes of a board of county commissioners,

↪ is abrogated.

2. *A board of county commissioners has:*

(a) All powers granted it by statute; and

(b) All other powers necessary or desirable in the conduct of county affairs, even though not granted by statute.

Sec. 5. *A board of county commissioners may exercise any power it has to the extent that the power is not expressly:*

1. *Denied by the Constitution of the State of Nevada;*
2. *Denied by the Constitution of the United States;*
3. *Denied by the laws of the State of Nevada; or*
4. *Granted to another entity.*

Sec. 6. 1. *If there is a constitutional or statutory provision requiring a specific manner for exercising a power, a board of county commissioners wanting to exercise the power shall do so in that manner.*

2. *If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a board of county commissioners wanting to exercise the power shall adopt an ordinance prescribing a specific manner for exercising the power.*

Sec. 7. *Except as expressly granted by statute, a board of county commissioners shall not:*

1. *Condition or limit its civil liability ~~if~~ unless such condition or limitation is part of a legally executed contract or agreement between the county and another political subdivision or a private individual or business.*

2. *Prescribe the law governing civil actions between private persons.*

3. *Impose duties on another political subdivision ~~if~~ unless the performance of the duties is part of a legally executed agreement between the county and another political subdivision.*

4. *Impose a tax.*

5. ~~*Impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.*~~

~~6. *Impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for*~~ *the actual cost of providing the services.*

~~7. *Regulate conduct that is regulated by a state agency.*~~

~~8. *Invest money.*~~

~~9. *Order or conduct an election.*~~

Sec. 8. Chapter 266 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 to 13, inclusive, of this act.

Sec. 9. *It is expressly declared as the intent of the Legislature to grant the city council the powers necessary for the effective operation of city government.*

Sec. 10. 1. *The rule of law that any doubt as to the existence of a power of a city council must be resolved against its existence is abrogated.*

2. *Any doubt as to the existence of a power of a city council must be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.*

Sec. 11. 1. *The rule of law that a city council can exercise only powers:*

- (a) *Expressly granted by statute;*

(b) *Necessarily or fairly implied in or incident to powers expressly granted; and*

(c) *Indispensable to the declared purposes of a city council,*
 ↪ *is abrogated.*

2. *A city council has:*

(a) *All powers granted it by statute; and*

(b) *All other powers necessary or desirable in the conduct of city affairs, even though not granted by statute.*

Sec. 12. *A city council may exercise any power it has to the extent that the power is not expressly:*

1. *Denied by the Constitution of the State of Nevada;*

2. *Denied by the Constitution of the United States;*

3. *Denied by the laws of the State of Nevada; or*

4. *Granted to another entity.*

Sec. 13. *Except as expressly granted by statute, a city council shall not:*

1. *Condition or limit its civil liability ~~if~~ unless such condition or limitation is part of a legally executed contract or agreement between the city and another political subdivision or a private individual or business.*

2. *Prescribe the law governing civil actions between private persons.*

3. *Impose duties on another political subdivision ~~if~~ unless the performance of the duties is part of a legally executed agreement between the city and another political subdivision.*

4. *Impose a tax.*

5. ~~*Impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.*~~

6. ~~*Impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for*~~ *the actual cost of providing the services.*

~~7.~~ 6. *Regulate conduct that is regulated by a state agency.*

~~8.~~ *Invest money.*

~~9.~~ 7. *Order or conduct an election.*

Sec. 14. NRS 266.260 is hereby amended to read as follows:

266.260 1. When power is conferred upon the city council to do and perform any act or thing, and ~~there~~ *there is a constitutional or statutory provision requiring a specific manner for exercising the power, the city council wanting to exercise the power shall do so in that manner.*

2. *When power is conferred upon the city council to do and perform any act or thing, and there is no constitutional or statutory provision requiring a specific manner ~~for~~ for exercising the ~~same is not specifically pointed out~~ power, the city council ~~may~~ wanting to exercise the power shall provide by ordinance the manner and details necessary for the full exercise of such power.*

Sec. 15. Chapter 268 of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 20, inclusive, of this act.

Sec. 16. 1. *The rule of law that any doubt as to the existence of a power of an incorporated city must be resolved against its existence is abrogated.*

2. *Any doubt as to the existence of a power of an incorporated city must be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.*

Sec. 17. 1. *The rule of law that an incorporated city can exercise only powers:*

- (a) *Expressly granted by statute;*
- (b) *Necessarily or fairly implied in or incident to powers expressly granted; and*
- (c) *Indispensable to the declared purposes of an incorporated city,*
~~is~~ *is abrogated.*

2. *An incorporated city has:*

- (a) *All powers granted it by statute; and*
- (b) *All other powers necessary or desirable in the conduct of city affairs, even though not granted by statute.*

Sec. 18. *An incorporated city may exercise any power it has to the extent that the power is not expressly:*

- 1. *Denied by the Constitution of the State of Nevada;*
- 2. *Denied by the Constitution of the United States;*
- 3. *Denied by the laws of the State of Nevada; or*
- 4. *Granted to another entity.*

Sec. 19. 1. *If there is a constitutional or statutory provision requiring a specific manner for exercising a power, an incorporated city wanting to exercise the power shall do so in that manner.*

2. *If there is no constitutional or statutory provision requiring a specific manner for exercising a power, an incorporated city wanting to exercise the power shall adopt an ordinance prescribing the specific manner for exercising the power.*

Sec. 20. *Except as expressly granted by statute, an incorporated city shall not:*

1. *Condition or limit its civil liability ~~that~~ unless such condition or limitation is part of a legally executed contract or agreement between the city and another political subdivision or a private individual or business.*

2. *Prescribe the law governing civil actions between private persons.*

3. *Impose duties on another political subdivision ~~that~~ unless the performance of the duties is part of a legally executed agreement between the city and another political subdivision.*

4. *Impose a tax.*

5. ~~*Impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.*~~

6. ~~*Impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for*~~ *the actual cost of providing the services.*

~~{7-}~~ **6. Regulate conduct that is regulated by a state agency.**

~~{8- Invest money}~~

~~9-}~~ **7. Order or conduct an election.**

Sec. 21. NRS 268.524 is hereby amended to read as follows:

268.524 **1.** It is the intent of the Legislature to authorize cities to finance, acquire, own, lease, improve and dispose of properties to:

~~{1-}~~ **(a)** Promote industry and employment and develop trade by inducing manufacturing, industrial, warehousing and other commercial enterprises and organizations for research and development to locate in, remain or expand in this State to further prosperity throughout the State and to further the use of the agricultural products and the natural resources of this State.

~~{2-}~~ **(b)** Enhance public safety by protecting hotels, motels, apartment buildings, casinos, office buildings and their occupants from fire.

~~{3-}~~ **(c)** Protect the health, safety and welfare of the public and promote private industry, commerce and employment in this State by:

~~{a-}~~ **(1)** Reducing, abating or preventing pollution or removing or treating any substance in processed material which would cause pollution; and

~~{b-}~~ **(2)** Furnishing energy, including electricity to the public, if available on reasonable demand, and providing facilities to transmit electricity for sale outside the State.

~~{4-}~~ **(d)** Promote the health of residents of the city by enabling a private enterprise to acquire, develop, expand and maintain health and care facilities and supplemental facilities for health and care facilities which will provide services of high quality to those residents at reasonable rates.

~~{5-}~~ **(e)** Promote the social welfare of the residents of the city by enabling corporations for public benefit to acquire, develop, expand and maintain facilities that provide services for those residents.

~~{6-}~~ **(f)** Promote the social welfare of the residents of the city by financing the acquisition, development, construction, improvement, expansion and maintenance of affordable housing in the city.

2. It is expressly declared as the intent of the Legislature to grant an incorporated city the powers necessary for the effective operation of city government.

Sec. 22. NRS 244.195 and 266.010 are hereby repealed.

Sec. 23. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

244.195 Other powers. The boards of county commissioners shall have power and jurisdiction in their respective counties to do and perform all such other acts and things as may be lawful and strictly necessary to the full discharge of the powers and jurisdiction conferred on the board.

266.010 Home rule granted; limitations. Subject to the right of the Legislature to create or alter the form of municipal organization by special act or charter, the right of home rule and self-government is hereby granted to the people of any city incorporated under the provisions of this chapter.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 338 to Senate Bill No. 385 addresses the specific exemptions set forth in the bill regarding local government powers by clarifying that legally executed contracts or agreements (such as interlocal agreements) relating to these exceptions would not be impacted and specifying that the exception relating to imposition of a service charge or user fee be "the actual cost of providing" the services.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 405.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 226.

"SUMMARY—Revises provisions governing business entities. (BDR 7-528)"

"AN ACT relating to business entities; revising provisions governing the manner in which business entities send and receive notices and communications; providing that certain nonprofit entities are exempt from the requirement to obtain a state business license; revising provisions governing the information included in a certificate of change in the number of an authorized class or series of shares; revising provisions governing restrictions on transfers of stock; authorizing a stockholder of a corporation to designate a proxy to consent or dissent in writing to a corporate action; revising provisions governing notice of a meeting of stockholders of a corporation, certain transactions between certain domestic corporations and interested stockholders and the dissolution of a corporation; revising provisions governing indemnification and advancement of expenses by a corporation under certain circumstances; reducing the maximum amount of the fee for filing with the Secretary of State certain instruments authorizing an increase in the stock of a corporation; revising provisions governing corporate records; revising provisions governing corporations organized under the law of a different jurisdiction; revising provisions governing the rights of a judgment creditor to satisfy a judgment out of the debtor's ownership interest in certain business entities; revising provisions governing mergers ~~and~~ and conversions ~~and domestications~~ of certain business entities; revising provisions related to the right of dissent to certain corporate actions; revising provisions governing the time at which certain documents filed with the Secretary of State become effective; revising provisions governing business trusts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-11, 16-19, 24-26, 58, 64, 72, 78, 92-94 and 102 of this bill revise provisions governing corporate records and the manner in which business entities sign, deliver and receive notices and communications ~~to include~~ based on proposed changes to the Model Business Corporation Act

, the Uniform Electronic Transactions Act and the federal Electronic Signatures in Global and National Commerce Act which relate to electronic records and notices.

Section 12 of this bill clarifies that a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization under section 501(c) of the Internal Revenue Code is not required to obtain a state business license.

Existing law restricts mergers and certain other transactions between certain domestic corporations with 200 or more stockholders and any stockholder which has acquired a specified amount of stock. (NRS 78.411-78.444) Under existing law, the corporation is prohibited from engaging in such a transaction with the stockholder for 3 years after the stockholder acquired the specified amount of stock, unless certain actions are taken by the board of directors of the corporation before the stockholder acquires the stock. (NRS 78.438) After the 3-year period, any such merger or transaction between the corporation and the stockholder is prohibited unless: (1) certain actions are taken by the board of directors or other stockholders; or (2) certain requirements concerning the consideration received by the other stockholders are satisfied. (NRS 78.439-78.443) **Sections 14, 16 and 30-48** of this bill: (1) decrease the applicable period from 3 years to 2 years; (2) amend provisions governing the type of corporation to which the restrictions apply; (3) amend the requirements for the merger or other transaction between the corporation and the stockholder; (4) allow the articles of incorporation of the corporation to impose stricter requirements on such transactions; and (5) specify that the board of directors of a corporation to which the existing law is applicable may take certain actions to protect the interests of the corporation and its stockholders.

Existing law provides for an effective date of certain documents filed with the Secretary of State. (NRS 78.1955, 78.209, 78.380, 78.390, 78.403, 78.580, 78A.180, 82.346, 82.356, 82.371, 82.451, 86.201, 86.216, 86.221, 86.226, 86.541, 86.547, 87.460, 87A.240, 87A.605, 87A.630, 88.355, 88.360, 88.380, 88.595, 88A.250, 88A.420, 88A.740, 92A.240) **Sections 20, 21, 27-29, 49, 55, 59-62, 65-68, 70, 71, 73, 74, 76, 77, 79-81, 83, 87, 90, 91 and 98** of this bill provide for a time at which these documents become effective.

Existing law provides that a change in the authorized number of shares of a class or series of stock is not effective until the filing of a certificate of change in the Office of the Secretary of State. (NRS 78.209) **Section 21** of this bill provides that the information concerning the shares which is included in the certificate ~~filed~~ **must be only the** information regarding the affected series or class of shares.

Section 22 of this bill revises provisions governing permissible restrictions on the transfer of stock of a corporation or on the amount of stock that may be owned by a person or group of persons by **clarifying and** specifically

~~authorizing~~ **delineating** certain additional restrictions on these transfers of stock.

Section 23 of this bill specifically authorizes a stockholder to designate a proxy to act for the stockholder in granting written consent or expressing written dissent to a corporate action.

Section 25 of this bill: (1) removes the requirement that the notice of a meeting of stockholders be signed by a corporate officer or certain other persons designated by the directors of the corporation; and (2) removes the requirement that notice of the annual meeting of stockholders state the purpose for which the meeting is called.

Existing law provides procedures for the dissolution of a corporation and provides that, upon dissolution, the board of directors become trustees with the power to take certain actions to wind up the business and affairs of the corporation. (NRS 78.575-78.595) **Section 49** of this bill: (1) authorizes the board of directors to condition the submission of the proposal for dissolution on any lawful basis; and (2) revises the requirements for providing notice to stockholders of the proposed dissolution by requiring such notice to be provided to all stockholders rather than only stockholders entitled to vote on the dissolution. **Section 51** of this bill provides that, in acting as trustees to wind up the affairs of the dissolved corporation, the directors have the same duties, and are entitled to the benefit of the same presumptions regarding the performance of those duties, as directors of a corporation. **Sections 63 and 102** repeal a provision of existing law which provides that lawsuits for debts owed by dissolved corporations must be filed in the name of the trustees and that those trustees are jointly and severally responsible for satisfying such debts from the property of the corporation in their possession. **Section 15** of this bill enacts a provision based on Delaware law which governs the liability of the stockholders of a dissolved corporation.

Existing law authorizes a corporation to indemnify and advance expenses to directors, officers, employees or agents of the corporation under certain circumstances. (NRS 78.7502, 78.751) This authority to indemnify and advance expenses does not affect other rights to which a person seeking indemnification or advancement of expenses is entitled under the articles of incorporation or the bylaws. (NRS 78.751) **Section 53** of this bill enacts a provision based on Delaware law which provides that a right to indemnification or the advancement of expenses under the articles of incorporation or the bylaws may not be eliminated or impaired by an amendment to the provision after the act or omission for which indemnification or advancement of expenses is sought, unless such elimination or impairment is authorized by the provision in effect at the time of the act or omission.

Existing law provides that the amount of the fee for filing articles of incorporation with the Secretary of State is based on the dollar amount of the total number of shares provided for in the articles of incorporation. (NRS 78.760) When a corporation increases the number of authorized shares,

the fee for filing that information with the Secretary of State is determined by subtracting the amount of the fee based on the increased number of shares from the amount of the fee based on the number of authorized shares excluding the increase. (NRS 78.765) The maximum amount of the fee for filing with the Secretary of State articles of incorporation or an instrument authorizing an increase in stock is: (1) \$35,000 for filing the original articles of incorporation; and (2) \$35,000 for filing an instrument authorizing an increase in stock. (NRS 78.760) **Section 54** of this bill reduces to \$34,925 the maximum amount of the fee for filing an instrument authorizing an increase in stock.

~~† Existing law requires a corporation organized under the laws of another jurisdiction to register with the Secretary of State before commencing or doing any business in this State. (NRS 80.010) Under existing law, certain activities are defined as not doing business in this State, thus exempting corporations engaging in those activities from the requirement to register with the Secretary of State or comply with certain other laws of this State. (NRS 80.015) However, notwithstanding this provision, a person who solicits business for the activities of a mortgage broker or a mortgage banker is deemed to be doing business in this State and required to register with the Secretary of State and comply with other existing laws. Section 56 of this bill provides that a person who engages in such activities in relation to a mortgage loan secured by commercial real property is exempt from these requirements.†~~

Sections 52, 69, 75 and 82 of this bill revise provisions governing the satisfaction of a judgment against a stockholder, member of a limited-liability company or partner of a limited partnership from the interest of the stockholder, member or partner in the entity.

Existing law authorizes one or more persons to create a business trust by adopting a governing instrument and signing and filing a certificate of trust with the Secretary of State. (NRS 88A.210) **Sections 84-86, 88 and 89** of this bill revise provisions relating to the status of a business trust as an entity separate from its trustees and beneficial owners, the powers of a business trust with respect to property ownership and the duties and liabilities of trustees of a business trust.

Section 96 of this bill revises provisions governing mergers for which action is not required by the stockholders of the surviving domestic corporation.

Section 97 of this bill clarifies the provisions of existing law which are applicable to conversions of domestic entities or domestic general partnerships into foreign entities and to conversions of foreign entities or foreign general partnerships into domestic entities.

~~† Section 99 of this bill revises provisions relating to the domestication of certain business entities.†~~

Under existing law, certain stockholders may dissent to certain corporate actions that will result in the receipt of money or scrip instead of a fraction of

a share and obtain payment of the fair value of the stockholder's shares. (NRS 78.205-78.207, 92A.380) **Section 100** of this bill clarifies that the right to obtain payment of the fair value of the shares relates only to the fraction of a share rather than all of the stockholder's shares. **Section 101** of this bill clarifies the proper district court in which an action to determine the fair value of the shares must be commenced.

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

Section 1. Title 7 is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in this title, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including, without limitation, delivery by hand, mail, commercial delivery and, if authorized in accordance with section 11 of this act, by electronic transmission.*

Sec. 4. *"Electronic" means relating to any technology, process or system having electrical, digital, magnetic, wireless, optical, electromagnetic or similar characteristics or qualities.*

Sec. 5. *"Electronic record" means information that is stored in an electronic or other medium and is retrievable in paper form through an automated process used in conventional commercial practice or, if authorized in accordance with subsection 8 of section 11 of this act, is otherwise retrievable in perceivable form.*

Sec. 6. *"Electronic transmission" or "electronically transmitted" means any form or process of communication not directly involving the physical transfer of paper or another tangible medium which:*

1. Is suitable for the retention, retrieval and reproduction of information by the recipient; and

2. Is retrievable and reproducible in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with subsection 8 of section 11 of this act.

Sec. 7. *"Record" means information that is inscribed on any tangible medium, including, without limitation, any writing or written instrument, or an electronic record.*

Sec. 8. *"Sign" or "signature" means with the present intent to authenticate or adopt a record or identify oneself:*

1. To execute or otherwise adopt a tangible symbol, name, word or mark, including, without limitation, any manual, facsimile or confirmed signature; or

2. To attach to or logically associate with an electronic transmission an electronic sound, symbol or process, including, without limitation, an electronic signature, in an electronic transmission.

Sec. 9. *"Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.*

Sec. 10. *"Writing" or "written" means any information in the form of a record.*

Sec. 11. 1. *Except as otherwise provided by specific statute:*

(a) *Any notice or other communication described in this title may be given or sent by any method of delivery; and*

(b) *An electronic transmission must be in accordance with this section.*

2. *A notice or other communication given or sent pursuant to the organic law or organic rules of an entity may be delivered by electronic transmission if:*

(a) *Consented to by the recipient or authorized by subsection 9; and*

(b) *The electronic transmission contains or is accompanied by information from which the recipient can determine the date of the transmission.*

3. *Any consent under subsection 2 may be revoked by the person who consented by written or electronic notice to the person to whom the consent was delivered. Any such consent is deemed revoked if:*

(a) *The person is unable to receive two consecutive electronic transmissions given by the entity or organization in accordance with such consent; and*

(b) *Such inability becomes known to the secretary of the entity sending the electronic transmissions or to the transfer agent or other person responsible for the giving of notice or other communications.*

↪ *The inadvertent failure to treat any such inability as a revocation does not invalidate any meeting or other action.*

4. *Unless otherwise agreed between sender and recipient, an electronic transmission is received when:*

(a) *It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic transmissions or information of the type sent; and*

(b) *It is in a form ordinarily capable of being processed by that system.*

5. *Receipt of an electronic acknowledgment from an information processing system described in paragraph (a) of subsection 4 establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.*

6. *An electronic transmission is received under this section even if no natural person is aware of its receipt.*

7. *Except as otherwise provided by specific statute, any notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:*

(a) *If in a physical form, when it is left at:*

(1) ~~[A stockholder's]~~ The address of a stockholder, member, partner or other owner of an entity, whichever is applicable, as it appears upon the records of the ~~[corporation's]~~ entity;

(2) ~~[A director's]~~ The residence or usual place of business ~~f-~~ of a director, manager or general partner, whichever is applicable;

(3) ~~The [corporation's]~~ entity's principal place of business; or

(4) If to a recipient other than a stockholder, director, member, partner or other owner of an entity or ~~[corporation]~~ an entity, such person's residence or usual place of business;

(b) If mailed by United States mail postage prepaid and correctly addressed to a stockholder, member, partner or other owner of an entity, upon deposit in the United ~~[State]~~ States mail;

(c) If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a stockholder, member, partner or other owner of an entity, the earliest of:

(1) If sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee; or

(2) Five days after it is deposited in the United States mail;

(d) If an electronic transmission, when it is received as provided in subsection 4; and

(e) If oral, when communicated.

↪ In the absence of fraud, an affidavit of the secretary of the entity or the transfer agent or any other agent of the entity that the notice has been given by a form of electronic transmission is prima facie evidence of the facts stated in the affidavit.

8. A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if:

(a) The electronic transmission is otherwise retrievable in perceivable form; and

(b) The sender and the recipient have consented in writing to the use of such form of electronic transmission.

9. If any provision of this title prescribes requirements for notices or other communication in particular circumstances, those requirements govern. If the organic rules of an entity prescribe requirements for notices or other communications, not inconsistent with this section or other provisions of this title, those requirements govern. The ~~[articles of incorporation or bylaws of a corporation]~~ organic rules of an entity may authorize, require or prohibit delivery of notices of meetings of directors, managers, members, partners or other owners of the entity by electronic transmission.

10. In the event that any provisions of this section are deemed to modify, limit or supersede the federal Electronic Signatures in Global and

National Commerce Act, 15 U.S.C. §§ 7001 et seq., the provisions of this section shall be deemed to control to the maximum extent permitted by section 102(a)(2) of that Act, 15 U.S.C. § 7002(a)(2).

11. As used in this section:

(a) "Entity" has the meaning ascribed to it in NRS 77.060.

(b) "Organic law" has the meaning ascribed to it in NRS 77.170.

(c) "Organic rules" has the meaning ascribed to it in NRS 77.180.

Sec. 12. NRS 76.100 is hereby amended to read as follows:

76.100 1. A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license before conducting a business in this State.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Secretary of State;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the entity number as assigned by the Secretary of State, if known, and the location in this State of the place or places of business;

(c) Be accompanied by a fee in the amount of \$100; and

(d) Include any other information that the Secretary of State deems necessary.

➡ If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed pursuant to NRS 239.330 by:

(a) The owner of a business that is owned by a natural person.

(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

6. For the purposes of this chapter, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to this title, other than a business organized pursuant to ~~chapter~~ :

(1) Chapter 82 or 84 of NRS; or

(2) Chapter 81 if the business is a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(b) Has an office or other base of operations in this State;

(c) Has a registered agent in this State; or

(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he or she is paid.

7. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 13. Chapter 78 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 and 15 of this act.

Sec. 14. *"Publicly traded corporation" means a domestic corporation that has a class or series of voting shares which is:*

1. A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(1)(A) or (B), as amended; or

2. Traded in an organized market and that has at least 2,000 stockholders and a market value of at least \$20,000,000, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors and beneficial stockholders owning more than 10 percent of such shares.

Sec. 15. 1. *A stockholder of a corporation dissolved pursuant to NRS 78.580 or whose period of corporate existence has expired, the assets of which were distributed pursuant to NRS 78.590, is not liable for any claim against the corporation in an amount in excess of such stockholder's pro rata share of the claim or the amount so distributed to such stockholder, whichever is less.*

2. A stockholder of a corporation dissolved pursuant to NRS 78.580 or whose period of corporate existence has expired, the assets of which were distributed pursuant to NRS 78.590, is not liable for any claim against the corporation on which an action, suit or proceeding is not begun before the expiration of the period described in NRS 78.585.

3. The aggregate liability of any stockholder of a corporation dissolved pursuant to NRS 78.580 or whose period of corporate existence has expired for claims against such corporation must not exceed the amount distributed to such stockholder pursuant to NRS 78.590.

Sec. 16. NRS 78.010 is hereby amended to read as follows:

78.010 1. As used in this chapter:

(a) "Approval" and "vote" as describing action by the directors or stockholders mean the vote of directors in person or by written consent or of stockholders in person, by proxy or by written consent.

(b) "Articles," "articles of incorporation" and "certificate of incorporation" are synonymous terms and, unless the context otherwise requires, include all certificates filed pursuant to NRS 78.030, 78.180, 78.185, 78.1955, 78.209, 78.380, 78.385, 78.390, 78.725 and 78.730 and any articles of merger, conversion, exchange or domestication filed pursuant to NRS 92A.200 to 92A.240, inclusive, or 92A.270. Unless the context otherwise requires, these terms include restated articles and certificates of incorporation.

(c) "Directors" and "trustees" are synonymous terms.

(d) *"Entity" means a foreign or domestic:*

(1) *Corporation, whether or not for profit;*

(2) *Limited-liability company;*

(3) *Limited partnership; or*

(4) *Business trust.*

~~{(d)}~~ (e) "Principal office" means the office, in or out of this State, where the principal executive offices of a domestic or foreign corporation are located.

~~{(e)}~~ (f) "Receiver" includes receivers and trustees appointed by a court as provided in this chapter or in chapter 32 of NRS.

~~{(f) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.}~~

(g) "Registered agent" has the meaning ascribed to it in NRS 77.230.

(h) "Registered office" means the office maintained at the street address of the registered agent.

(i) ~~{ "Sign" means to affix a signature to a record. }~~

(j) ~~"Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself or herself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.~~

~~{(k)}~~ "Stockholder of record" means a person whose name appears on the stock ledger of the corporation.

~~{(l) "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process.}~~

2. General terms and powers given in this chapter are not restricted by the use of special terms, or by any grant of special powers contained in this chapter.

Sec. 17. NRS 78.0297 is hereby amended to read as follows:

78.0297 1. Except as otherwise ~~provided~~ **required** by federal or state law, any records maintained by a corporation in its regular course of business, including, without limitation, its stock ledger, *minute books*, books of account and ~~minute books,~~ **financial records**, may be kept on, **or** by means of, ~~for or be in the form of,~~ any information processing system or other

information storage device or medium ~~††~~, *or in the form of an electronic record.*

2. A corporation shall convert within a reasonable time any *electronic* records ~~kept in the manner described in subsection 1†~~ into clear and legible paper form upon the request of any person entitled to inspect the records maintained by the corporation pursuant to any provision of this chapter.

3. A clear and legible paper form produced from *electronic* records ~~kept in the manner described in subsection 1†~~ is admissible in evidence and accepted for all other purposes to the same extent as an original paper record with the same information provided that the paper form portrays the record accurately.

Sec. 18. NRS 78.0298 is hereby amended to read as follows:

78.0298 ~~††~~ No record or signature maintained by a corporation is required to be created, generated, sent, communicated, received, stored or otherwise processed or used by electronic means or in electronic form.

~~†2. The corporation may refuse to accept or conduct any transaction or create, generate, send, communicate, receive, store or otherwise process, use or accept any record or signature by electronic means or in electronic form.†~~

Sec. 19. NRS 78.090 is hereby amended to read as follows:

78.090 1. Every corporation must have a registered agent who resides or is located in this State. Notwithstanding the provisions of NRS 77.300, each registered agent must have a street address for receiving service of process, which is the registered office of the corporation in this State. If the registered agent is in the business of acting as a registered agent for more than one business entity, the physical street address of the registered office must be in a location for which such use is not prohibited by any local ordinance. The registered agent may have a separate mailing address such as a post office box, which may be different from the street address.

2. If the registered agent is a bank or corporation, it may:

(a) Act as the fiscal or transfer agent of any state, municipality, body politic or corporation and in that capacity may receive and disburse money.

(b) Transfer, register and countersign certificates of stock, bonds or other evidences of indebtedness and act as agent of any corporation, foreign or domestic, for any purpose required by statute, or otherwise.

(c) Act as trustee under any mortgage or bond issued by any municipality, body politic or corporation, and accept and execute any other municipal or corporate trust not inconsistent with the laws of this State.

(d) Receive and manage any sinking fund of any corporation, upon such terms as may be agreed upon between the corporation and those dealing with it.

3. Every corporation organized pursuant to this chapter which fails or refuses to comply with the requirements of this section is subject to a fine of not less than \$100 nor more than \$500, to be recovered with costs by the State, before any court of competent jurisdiction, by action at law prosecuted

by the Attorney General or by the district attorney of the county in which the action or proceeding to recover the fine is prosecuted.

4. All legal process and any demand , ~~for~~ notice *or communication* authorized by law to be served upon , *or delivered to*, a corporation may be served upon , *or delivered to*, the registered agent of the corporation in the manner provided in subsection 2 of NRS 14.020. If any demand, notice , *communication* or legal process, other than a summons and complaint, cannot be served upon , *or delivered to*, the registered agent, it may be served *or delivered* in the manner provided in NRS 14.030. These manners and modes of service *or delivery* are in addition to any other *manner and mode of service or delivery* authorized by law.

Sec. 20. NRS 78.1955 is hereby amended to read as follows:

78.1955 1. If the voting powers, designations, preferences, limitations, restrictions and relative rights of any class or series of stock have been established by a resolution of the board of directors pursuant to a provision in the articles of incorporation, a certificate of designation setting forth the resolution and stating the number of shares for each designation must be signed by an officer of the corporation and filed with the Secretary of State. A certificate of designation signed and filed pursuant to this section must become effective before the issuance of any shares of the class or series.

2. Unless otherwise provided in the articles of incorporation or the certificate of designation being amended, if no shares of a class or series of stock established by a resolution of the board of directors have been issued, the designation of the class or series, the number of the class or series and the voting powers, designations, preferences, limitations, restrictions and relative rights of the class or series may be amended by a resolution of the board of directors pursuant to a certificate of amendment filed in the manner provided in subsection 4.

3. Unless otherwise provided in the articles of incorporation or the certificate of designation, if shares of a class or series of stock established by a resolution of the board of directors have been issued, the designation of the class or series, the number of the class or series and the voting powers, designations, preferences, limitations, restrictions and relative rights of the class or series may be amended by a resolution of the board of directors only if the amendment is approved as provided in this subsection. Unless otherwise provided in the articles of incorporation or the certificate of designation, the proposed amendment adopted by the board of directors must be approved by the vote of stockholders holding shares in the corporation entitling them to exercise a majority of the voting power, or such greater proportion of the voting power as may be required by the articles of incorporation or the certificate of designation, of:

- (a) The class or series of stock being amended; and
- (b) Each class and each series of stock which, before amendment, is senior to the class or series being amended as to the payment of distributions upon

dissolution of the corporation, regardless of any limitations or restrictions on the voting power of that class or series.

4. A certificate of amendment to a certificate of designation must be signed by an officer of the corporation and filed with the Secretary of State and must:

(a) Set forth the original designation and the new designation, if the designation of the class or series is being amended;

(b) State that no shares of the class or series have been issued or state that the approval of the stockholders required pursuant to subsection 3 has been obtained; and

(c) Set forth the amendment to the class or series or set forth the designation of the class or series, the number of the class or series and the voting powers, designations, preferences, limitations, restrictions and relative rights of the class or series, as amended.

5. A certificate filed pursuant to subsection 1 or 4 is effective ~~upon~~ **at the time of the** filing of the certificate with the Secretary of State or upon a later date **and time as** specified in the certificate, which date must not be more than 90 days after the **date on which the** certificate is filed. ***If a certificate filed pursuant to subsection 1 or 4 specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

6. If shares of a class or series of stock established by a certificate of designation are not outstanding, the corporation may file a certificate which states that no shares of the class or series are outstanding and which contains the resolution of the board of directors authorizing the withdrawal of the certificate of designation establishing the class or series of stock. The certificate must identify the date and certificate of designation being withdrawn and must be signed by an officer of the corporation and filed with the Secretary of State. Upon filing the certificate and payment of the fee required pursuant to NRS 78.765, all matters contained in the certificate of designation regarding the class or series of stock are eliminated from the articles of incorporation.

7. NRS 78.380, 78.385 and 78.390 do not apply to certificates of amendment filed pursuant to this section.

Sec. 21. NRS 78.209 is hereby amended to read as follows:

78.209 1. A change pursuant to NRS 78.207 is not effective until after the filing in the Office of the Secretary of State of a certificate, signed by an officer of the corporation, setting forth:

(a) The ~~current~~ number of authorized shares and the par value, if any, of each **affected** class or **, if applicable, each affected** series ~~[-, if any,]~~ of shares before the change;

(b) The number of authorized shares and the par value, if any, of each **affected** class or **, if applicable, each affected** series ~~[-, if any,]~~ of shares after the change;

(c) The number of shares of each affected class or , *if applicable, each affected* series ~~[-if any,]~~ to be issued after the change in exchange for each issued share of the same class or series;

(d) The provisions, if any, for the issuance of fractional shares, or for the payment of money or the issuance of scrip to stockholders otherwise entitled to a fraction of a share and the percentage of outstanding shares affected thereby; and

(e) That any required approval of the stockholders has been obtained.

➔ The provisions in the articles of incorporation of the corporation regarding the authorized number and par value, if any, of the changed class or , *if applicable, the changed* series ~~[-if any,]~~ of shares shall be deemed amended as provided in the certificate at the effective date and time of the change.

2. Unless an increase or decrease of the number of authorized shares pursuant to NRS 78.207 is accomplished by an action that otherwise requires an amendment to the articles of incorporation of the corporation, such an amendment is not required by that section.

3. A certificate filed pursuant to subsection 1 is effective ~~upon~~ *at the time of the filing of* the certificate with the Secretary of State or upon a later date *and time as* specified in the certificate, which *date* must not be more than 90 days after the *date on which the* certificate is filed. *If a certificate filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

4. If a certificate filed pursuant to subsection 1 specifies ~~that~~ *a later* effective date, the board of directors may terminate the effectiveness of the certificate by resolution. A certificate of termination must:

(a) Be filed with the Secretary of State before the effective date specified in the certificate filed pursuant to subsection 1;

(b) Identify the certificate being terminated;

(c) State that the effectiveness of the certificate has been terminated;

(d) Be signed by an officer of the corporation; and

(e) Be accompanied by the fee required pursuant to NRS 78.765.

Sec. 22. NRS 78.242 is hereby amended to read as follows:

78.242 1. Subject to the limitation imposed by NRS 104.8204, a written restriction on the transfer or registration of transfer of the stock of a corporation, if permitted by this section, may be enforced against the holder of the restricted stock or any successor or transferee of the holder, including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder.

2. A restriction on the transfer or registration of transfer of the stock of a corporation , *or on the amount of a corporation's stock that may be owned by a person or group of persons,* may be imposed by the articles of incorporation or by the bylaws or by an agreement among any number of stockholders or between *or among* one or more stockholders and the corporation. No restriction so imposed is binding *upon any stockholder* with

respect to ~~{stocks issued before the adoption of the restriction unless the stockholders are parties to an}~~ ***the shares of stock owned by such stockholder at the time the restriction is adopted, regardless of any later effective time of such restriction, unless such stockholder is a party to the agreement or voted in favor of the restriction.***

3. A restriction on the transfer or the registration of transfer of shares is valid and enforceable against the transferee of the stockholder if the restriction is not prohibited by other law and its existence is noted conspicuously on the front or back of the stock certificate or is contained in the statement of information required by NRS 78.235. Unless so noted, a restriction is not enforceable against a person without knowledge of the restriction.

4. A restriction on the transfer or registration of transfer of ***the*** stock of a corporation ***or on the amount of such stock that may be owned by any person or group of persons*** is permitted, without limitation by this enumeration, if it:

(a) Obligates the stockholder first to offer to the corporation or to any other stockholder or stockholders of the corporation or to any other person or persons or to any combination of the foregoing a prior opportunity, to be exercised within a reasonable time, to acquire the stock;

(b) Obligates the corporation or any ~~{holder of stock}~~ ***stockholder*** of the corporation or any other person or any combination of the foregoing to purchase stock which is the subject of an agreement respecting the purchase and sale of the stock;

(c) Requires the corporation or any stockholder or stockholders to ~~{consent}~~:

(1) ***Consent*** to any proposed transfer of the stock ~~{or to approve}~~;

(2) ***Approve*** the proposed transferee of stock ~~{}~~; ***or***

(3) ***Approve the amount of stock of the corporation proposed to be acquired by any person or group of persons;***

(d) Prohibits ***or restricts*** the transfer of the stock to , ***or the ownership of stock by***, designated persons or classes of persons, and such designation is not manifestly unreasonable; or

(e) Prohibits ***or restricts*** the transfer ***or registration of transfer*** of the stock ~~{}~~ ***or the amount of stock of a corporation that may be owned by a person or group of persons, for any of the following purposes:***

(1) To maintain the corporation's status when it is dependent on the number or identity of its stockholders ~~{}~~, ***including, without limitation, the corporation's status as an electing small business corporation under subchapter S of chapter 1 of subtitle A of the United States Internal Revenue Code, 26 U.S.C. § 1371 et seq., as amended, or any successor provision;***

(2) To ***maintain or*** preserve ***the corporation's status or*** exemptions under federal or state laws governing taxes or securities, including, without limitation, the qualification of the corporation as a real estate investment trust

pursuant to 26 U.S.C. §§ 856 et seq., as amended, or any successor provision, and any regulations adopted pursuant thereto; ~~or~~

(3) *To maintain or preserve any other local, state, federal or foreign tax advantage to, or attribute of, the corporation or its stockholders, including, without limitation, net operating losses;*

(4) *To maintain any statutory or regulatory advantage or to comply with any statutory or regulatory requirements under applicable local, state, federal or foreign law; or*

(5) For any other reasonable purpose.

5. For the purposes of this section, "stock" includes a security convertible into or carrying ~~at~~ *an option or other* right to subscribe for or to acquire stock.

Sec. 23. NRS 78.355 is hereby amended to read as follows:

78.355 1. ~~At any meeting of the stockholders of any corporation any~~ *Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting* may ~~designate~~ *authorize* another person or persons to act ~~as a~~ *for such stockholder by proxy .* ~~for proxies.~~ If any stockholder designates two or more persons to act as proxies, a majority of those persons present at the meeting ~~or a majority of those persons granting consent or exercising a right of dissent in writing,~~ or, if only one is present ~~or consenting or dissenting in writing,~~ then that one has and may exercise all of the powers conferred by the stockholder upon all of the persons so designated unless the stockholder provides otherwise. *The proxy may be limited to action on designated matters.*

2. Without limiting the manner in which a stockholder may authorize another person or persons to act for him or her as proxy pursuant to subsection 1, ~~the following constitute valid means by which a stockholder may grant such authority:~~

~~(a) A~~ *a* stockholder may sign a writing authorizing another person or persons to act for him or her as proxy. ~~The proxy may be limited to action on designated matters.~~

~~(b) A stockholder may authorize another person or persons to act for him or her as proxy by transmitting or authorizing the transmission of an electronic record to the person who will be the holder of the proxy or to a firm which solicits proxies or like agent who is authorized by the person who will be the holder of the proxy to receive the transmission. Any such electronic record must either set forth or be submitted with information from which it can be determined that the electronic record was authorized by the stockholder. If it is determined that the electronic record is valid, the persons appointed by the corporation to count the votes of stockholders and determine the validity of proxies and ballots or other persons making those determinations must specify the information upon which they relied.~~

3. Any copy, communication by electronic transmission or other reliable reproduction of the ~~record~~ *writing* created pursuant to subsection 2 may be

substituted for the original ~~record~~ **writing** for any purpose for which the original ~~record~~ **writing** could be used, if the copy, communication by electronic transmission or other reproduction is a complete reproduction of the entire original ~~record~~ **writing**.

4. Except as otherwise provided in subsection 5, no such proxy is valid after the expiration of 6 months from the date of its creation unless the stockholder specifies in it the length of time for which it is to continue in force, which may not exceed 7 years from the date of its creation. Subject to these restrictions, any proxy properly created is not revoked and continues in full force and effect until:

(a) Another instrument or transmission revoking it or a properly created proxy bearing a later date is filed with or transmitted to the secretary of the corporation or another person or persons appointed by the corporation to count the votes of stockholders and determine the validity of proxies and ballots; or

(b) ~~The~~ **In the case of a meeting of stockholders, the** stockholder revokes the proxy by attending the meeting and voting the stockholder's shares in person, in which case, any vote cast by the person or persons designated by the stockholder to act as a proxy or proxies must be disregarded by the corporation when the votes are counted.

5. A proxy shall be deemed irrevocable if the written authorization states that the proxy is irrevocable, but is irrevocable only for as long as it is coupled with an interest sufficient in law to support an irrevocable power, including, without limitation, the appointment as proxy of a pledgee, a person who purchased or agreed to purchase the shares, a creditor of the corporation who extended it credit under terms requiring the appointment, an employee of the corporation whose employment contract requires the appointment or a party to a voting agreement created pursuant to subsection 3 of NRS 78.365. Unless otherwise provided in the proxy, a proxy made irrevocable pursuant to this subsection is revoked when the interest with which it is coupled is extinguished, but the corporation may honor the proxy until notice of the extinguishment of the proxy is received by the corporation. A transferee for value of shares subject to an irrevocable proxy may revoke the proxy if the transferee did not know of its existence when the transferee acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

6. If any stockholder subject to a properly created irrevocable proxy attends any meeting of the stockholders **or attempts to grant a consent or exercise a right of dissent** for which the authorization grants authority to act on the stockholder's behalf at the meeting, **or in granting a consent or exercising a right of dissent, as applicable**, to a proxy or proxies, unless expressly otherwise provided in the written authorization or electronic record:

(a) Only the proxy or proxies may have and exercise all the powers of the stockholder at the meeting ~~{-}~~ **or in granting a consent or exercising a right of dissent, as applicable;** and

(b) Only a vote **, consent or dissent, as applicable,** of the proxy or proxies may be regarded **as valid** by the corporation ~~. {when the votes are counted.}~~

Sec. 24. NRS 78.360 is hereby amended to read as follows:

78.360 1. The articles of incorporation of any corporation may provide that at all elections of directors of the corporation each holder of stock possessing voting power is entitled to as many votes as equal the number of his or her shares of stock multiplied by the number of directors to be elected, and that the holder of stock may cast all of his or her votes for a single director or may distribute them among the number to be voted for or any two or more of them, as the holder of stock may see fit. To exercise the right of cumulative voting, one or more of the stockholders requesting cumulative voting must give written notice to the president or secretary of the corporation that the stockholder desires that the voting for the election of directors be cumulative.

2. The notice must be ~~{given}~~ **delivered** not less than 48 hours before the time fixed for holding the meeting, if notice of the meeting has been ~~{given}~~ **delivered** at least 10 days before the date of the meeting, and otherwise not less than 24 hours before the meeting. At the meeting, before the commencement of voting for the election of directors, an announcement of the ~~{giving}~~ **delivery** of the notice must be made by the chairman or the secretary of the meeting or by or on behalf of the stockholder ~~{giving}~~ **delivering** the notice. Notice to stockholders of the requirement of this subsection must be contained in the notice calling the meeting or in the proxy material accompanying the notice.

Sec. 25. NRS 78.370 is hereby amended to read as follows:

78.370 1. If under the provisions of this chapter stockholders are required or authorized to take any action at a meeting, the notice of the meeting must be in writing ~~. {and signed by the president or a vice president, or the secretary or an assistant secretary, or by such other natural person or persons as the bylaws may prescribe or permit or the directors may designate.}~~

2. ~~{The}~~ **Except in the case of the annual meeting, the** notice must state the purpose or purposes for which the meeting is called ~~. {-}~~ **In all instances, the notice must state** the time when, and the place, which may be within or without this State, where ~~{it}~~ **the meeting** is to be held, and the means of electronic communications, if any, by which stockholders and proxies shall be deemed to be present in person and vote.

3. A copy of the notice must be delivered personally, mailed postage prepaid or ~~{given}~~ **delivered** as provided in ~~{subsection 8}~~ **section 11 of this act** to each stockholder of record entitled to vote at the meeting not less than 10 nor more than 60 days before the meeting. If mailed, it must be directed to the stockholder at his or her address as it appears upon the records of the

corporation . ~~It and upon the mailing of any such notice the service thereof is complete, and the time of the notice begins to run from the date upon which the notice is deposited in the mail for transmission to the stockholder.~~

Personal delivery of any such notice to any officer of a corporation or association, to any member of a limited-liability company managed by its members, to any manager of a limited-liability company managed by managers, to any general partner of a partnership or to any trustee of a trust constitutes delivery of the notice to the corporation, association, limited-liability company, partnership or trust.

4. The articles of incorporation or the bylaws may require that the notice be also published in one or more newspapers.

5. Notice delivered or mailed to a stockholder in accordance with the provisions of this section ~~and~~ **section 11 of this act** and the provisions, if any, of the articles of incorporation or the bylaws is sufficient, and in the event of the transfer of the stockholder's stock after such delivery or mailing and before the holding of the meeting it is not necessary to deliver or mail notice of the meeting to the transferee.

6. Unless otherwise provided in the articles of incorporation or the bylaws, if notice is required to be ~~given~~ ***delivered***, under any provision of this chapter or the articles of incorporation or bylaws of any corporation, to any stockholder to whom:

(a) Notice of two consecutive annual meetings, and all notices of meetings or of the taking of action by written consent without a meeting to the stockholder during the period between those two consecutive annual meetings; or

(b) All, and at least two, payments sent by first-class mail of dividends or interest on securities during a 12-month period,

➤ have been mailed addressed to the stockholder at his or her address as shown on the records of the corporation and have been returned undeliverable, the ~~giving~~ ***delivery*** of further notices to the stockholder is not required. Any action or meeting taken or held without notice to such a stockholder has the same effect as if the notice had been ~~given~~ ***delivered***. If any such stockholder delivers to the corporation a written notice setting forth his or her current address, the requirement that notice be ~~given~~ ***delivered*** to the stockholder is reinstated. If the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this chapter, the certificate need not state that notice was not ~~given~~ ***delivered*** to persons to whom notice was not required to be ~~given~~ ***delivered*** pursuant to this subsection. The ~~giving~~ ***delivery*** of further notices to a stockholder is still required for any notice returned as undeliverable if the notice was ~~given~~ ***delivered*** by electronic transmission.

7. Unless the articles of incorporation or bylaws otherwise require, and except as otherwise provided in this subsection, if a stockholders' meeting is adjourned to another date, time or place, notice need not be ~~given~~ ***delivered*** of the date, time or place of the adjourned meeting if they are announced at

the meeting at which the adjournment is taken. If a new record date is fixed for the adjourned meeting, notice of the adjourned meeting must be ~~{given}~~ **delivered** to each stockholder of record as of the new record date.

~~18.— Any notice to stockholders given by the corporation pursuant to any provision of this chapter, chapter 92A of NRS, the articles of incorporation or the bylaws is effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. The consent is revocable by the stockholder by written notice to the corporation. The consent is revoked if:~~

~~(a) The corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with the consent; and~~

~~(b) The inability to deliver by electronic transmission becomes known to the secretary, assistant secretary, transfer agent or other agent of the corporation responsible for the giving of notice. However, the inadvertent failure to treat the inability to deliver a notice by electronic transmission as a revocation does not invalidate any meeting or other action.~~

~~9.— Notice given pursuant to subsection 8 shall be deemed given if:~~

~~(a) By facsimile machine, when directed to a number at which the stockholder has consented to receive notice;~~

~~(b) By electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;~~

~~(c) By a posting on an electronic network together with separate notice to the stockholder of the specific posting, upon the later of:~~

~~(1) Such posting; and~~

~~(2) The giving of the separate notice; and~~

~~(d) By any other form of electronic transmission, when directed to the stockholder.~~

~~➔ In the absence of fraud, an affidavit of the secretary, assistant secretary, transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission is prima facie evidence of the facts stated in the affidavit.~~

~~10.— As used in this section, "electronic transmission" means any form of communication not directly involving the physical transmission of paper that:~~

~~(a) Creates a record that may be retained, retrieved and reviewed by a recipient of the communication; and~~

~~(b) May be directly reproduced in paper form by the recipient through an automated process.~~

Sec. 26. NRS 78.375 is hereby amended to read as follows:

78.375 Whenever any notice ~~{whatever}~~ **or other communication** is required to be ~~{given}~~ **delivered** under the provisions of this chapter, a waiver thereof in a signed writing ~~{or by transmission of an electronic record}~~ by the person or persons entitled to the notice ~~{}~~ **or communication**, whether before or after the time stated therein, shall be deemed equivalent thereto.

Sec. 27. NRS 78.380 is hereby amended to read as follows:

78.380 1. At least two-thirds of the incorporators or of the board of directors of any corporation, if no voting stock of the corporation has been issued, may amend the articles of incorporation of the corporation by signing and filing with the Secretary of State a certificate amending, modifying, changing or altering the articles, in whole or in part. The certificate must state that:

(a) The signers thereof are at least two-thirds of the incorporators or of the board of directors of the corporation, and state the name of the corporation; and

(b) As of the date of the certificate, no voting stock of the corporation has been issued.

2. A certificate filed pursuant to this section is effective ~~upon~~ *at the time of the* filing of the certificate with the Secretary of State or upon a later date *and time as* specified in the certificate, which *date* must not be more than 90 days after the *date on which the* certificate is filed. *If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

3. If a certificate specifies ~~any~~ *a later* effective date and if no voting stock of the corporation has been issued, the board of directors may terminate the effectiveness of a certificate by filing a certificate of termination with the Secretary of State that:

(a) *Is filed before the effective date specified in the certificate filed with the Secretary of State pursuant to subsection 1;*

~~(b)~~ *(b)* Identifies the certificate being terminated;

~~(c)~~ *(c)* States that no voting stock of the corporation has been issued;

~~(d)~~ *(d)* States that the effectiveness of the certificate has been terminated;

~~(e)~~ *(e)* Is signed by at least two-thirds of the board of directors of the corporation; and

~~(f)~~ *(f)* Is accompanied by the fee required pursuant to NRS 78.765.

4. This section does not permit the insertion of any matter not in conformity with this chapter.

Sec. 28. NRS 78.390 is hereby amended to read as follows:

78.390 1. Except as otherwise provided in NRS 77.340, every amendment to the articles of incorporation must be made in the following manner:

(a) The board of directors must adopt a resolution setting forth the amendment proposed and either call a special meeting of the stockholders entitled to vote on the amendment or direct that the proposed amendment be considered at the next annual meeting of the stockholders entitled to vote on the amendment.

(b) At the meeting, of which notice must be given to each stockholder entitled to vote pursuant to the provisions of this section, a vote of the stockholders entitled to vote in person or by proxy must be taken for and

against the proposed amendment. If it appears upon the canvassing of the votes that stockholders holding shares in the corporation entitling them to exercise at least a majority of the voting power, or such greater proportion of the voting power as may be required in the case of a vote by classes or series, as provided in subsections 2 and 4, or as may be required by the provisions of the articles of incorporation, have voted in favor of the amendment, an officer of the corporation shall sign a certificate setting forth the amendment, or setting forth the articles of incorporation as amended, and the vote by which the amendment was adopted.

(c) The certificate so signed must be filed with the Secretary of State.

2. Except as otherwise provided in this subsection, if any proposed amendment would adversely alter or change any preference or any relative or other right given to any class or series of outstanding shares, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series adversely affected by the amendment regardless of limitations or restrictions on the voting power thereof. The amendment does not have to be approved by the vote of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the amendment if the articles of incorporation specifically deny the right to vote on such an amendment.

3. Provision may be made in the articles of incorporation requiring, in the case of any specified amendments, a larger proportion of the voting power of stockholders than that required by this section.

4. Different series of the same class of shares do not constitute different classes of shares for the purpose of voting by classes except when the series is adversely affected by an amendment in a different manner than other series of the same class.

5. The resolution of the stockholders approving the proposed amendment may provide that at any time before the effective date of the amendment, notwithstanding approval of the proposed amendment by the stockholders, the board of directors may, by resolution, abandon the proposed amendment without further action by the stockholders.

6. A certificate filed pursuant to subsection 1 is effective ~~upon~~ *at the time of the filing of the certificate with the Secretary of State or upon a later date and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

7. If a certificate filed pursuant to subsection 1 specifies ~~that~~ *a later* effective date and if the resolution of the stockholders approving the proposed amendment provides that the board of directors may abandon the proposed amendment pursuant to subsection 5, the board of directors may

terminate the effectiveness of the certificate by resolution and by filing a certificate of termination with the Secretary of State that:

- (a) Is filed before the effective date specified in the certificate filed **with the Secretary of State** pursuant to subsection 1;
- (b) Identifies the certificate being terminated;
- (c) States that, pursuant to the resolution of the stockholders, the board of directors is authorized to terminate the effectiveness of the certificate;
- (d) States that the effectiveness of the certificate has been terminated;
- (e) Is signed by an officer of the corporation; and
- (f) Is accompanied by a filing fee of \$175.

Sec. 29. NRS 78.403 is hereby amended to read as follows:

78.403 1. A corporation may restate, or amend and restate, in a single certificate the entire text of its articles of incorporation as amended by filing with the Secretary of State a certificate in the manner provided in this section. If the certificate alters or amends the articles in any manner, it must comply with the provisions of NRS 78.380, 78.385 and 78.390, as applicable.

2. If the certificate does not alter or amend the articles, it must be signed by an officer of the corporation and state that the officer has been authorized to sign the certificate by resolution of the board of directors adopted on the date stated, and that the certificate correctly sets forth the text of the articles of incorporation as amended to the date of the certificate.

3. The following may be omitted from the restated articles:

- (a) The names, addresses, signatures and acknowledgments of the incorporators;
- (b) The names and addresses of the members of the past and present boards of directors; and
- (c) The information required pursuant to NRS 77.310.

4. Whenever a corporation is required to file a certified copy of its articles, in lieu thereof it may file a certified copy of the most recent certificate restating its articles as amended, subject to the provisions of subsection 2, together with certified copies of all certificates of amendment filed subsequent to the restated articles and certified copies of all certificates supplementary to the original articles.

5. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the filing of the certificate with the Secretary of State or upon a later date and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 30. NRS 78.411 is hereby amended to read as follows:

78.411 As used in NRS 78.411 to 78.444, inclusive, ***and section 14 of this act***, unless the context otherwise requires, the words and terms defined in NRS 78.412 to 78.432, inclusive, ***and section 14 of this act*** have the meanings ascribed to them in those sections.

Sec. 31. NRS 78.413 is hereby amended to read as follows:

78.413 "Associate," when used to indicate a relationship with any person, means:

1. Any corporation or organization of which that person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of voting shares;

2. Any trust or other estate in which that person has a substantial beneficial interest or as to which that person serves as trustee or in a similar fiduciary capacity; and

3. Any relative or spouse of that person, or any relative of the spouse, who has ~~the same home as~~ **a common principal residence with** that person.

Sec. 32. NRS 78.414 is hereby amended to read as follows:

78.414 "Beneficial owner," when used with respect to any shares, means a person that:

1. Individually or with or through any of its affiliates or associates, ~~beneficially owns the shares, directly or indirectly;~~ **possesses:**

(a) Voting power over the shares, including, without limitation, the power to vote, or to direct the voting of, the shares; or

(b) Investment power over the shares, including, without limitation, the power to dispose, or to direct the disposition, of the shares,

↪ under any agreement, arrangement or understanding, whether or not in writing, but a person is not considered the beneficial owner of any shares under this subsection if the power to vote, or to direct the voting of, the shares arises solely from a revocable proxy or consent given in response to a solicitation made in accordance with the applicable regulations under the Securities Exchange Act and is not then reportable on a Schedule 13D under the Securities Exchange Act or any comparable or successor report;

2. Individually or with or through any of its affiliates or associates, has ~~the~~

~~(a) The~~ **the** right to acquire the shares, whether the right is exercisable immediately or only after the passage of time, under any agreement, arrangement or understanding, whether or not in writing, or upon the exercise of rights to convert or exchange, warrants or options, or otherwise, but a person is not considered the beneficial owner of shares tendered under an offer for a tender or exchange made by the person or any of ~~this or her~~ **the person's** affiliates or associates until the tendered shares are accepted for purchase or exchange; or

~~{(b) The right to vote the shares under any agreement, arrangement or understanding, whether or not in writing, but a person is not considered the beneficial owner of any shares under this paragraph if the agreement, arrangement or understanding to vote the shares arises solely from a revocable proxy or consent given in response to a solicitation made in accordance with the applicable regulations under the Securities Exchange Act and is not then reportable on a Schedule 13D under the Securities Exchange Act, or any comparable or successor report; or}~~

3. Has any agreement, arrangement or understanding, whether or not in writing, for the purpose of acquiring, holding, voting, except voting under a revocable proxy or consent as described in ~~paragraph (b) of~~ subsection ~~12, 1~~, or disposing of the shares with any other person who beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, the shares.

Sec. 33. NRS 78.416 is hereby amended to read as follows:

78.416 "Combination," when used in reference to any resident domestic corporation and any interested stockholder of the resident domestic corporation, means any of the following:

1. Any merger or consolidation of the resident domestic corporation or any subsidiary of the resident domestic corporation with:

(a) The interested stockholder; or

(b) Any other ~~corporation,~~ **entity**, whether or not itself an interested stockholder of the resident domestic corporation, which is, or after **and as a result of** the merger or consolidation would be, an affiliate or associate of the interested stockholder.

2. Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, to or with the interested stockholder or any affiliate or associate of the interested stockholder of assets of the resident domestic corporation or any subsidiary of the resident domestic corporation:

(a) Having an aggregate market value equal to **more than** 5 percent ~~for more~~ of the aggregate market value of all the assets, determined on a consolidated basis, of the resident domestic corporation;

(b) Having an aggregate market value equal to **more than** 5 percent ~~for more~~ of the aggregate market value of all the outstanding **voting** shares of the resident domestic corporation; or

(c) Representing **more than** 10 percent ~~for more~~ of the earning power or net income, determined on a consolidated basis, of the resident domestic corporation.

3. The issuance or transfer by the resident domestic corporation or any subsidiary of the resident domestic corporation, in one transaction or a series of transactions, of any shares of the resident domestic corporation or any subsidiary of the resident domestic corporation that have an aggregate market value equal to 5 percent or more of the aggregate market value of all the outstanding **voting** shares of the resident domestic corporation to the interested stockholder or any affiliate or associate of the interested stockholder except under the exercise of warrants or rights to purchase shares offered, or a dividend or distribution paid or made, pro rata to all stockholders of the resident domestic corporation.

4. The adoption of any plan or proposal for the liquidation or dissolution of the resident domestic corporation ~~proposed by, or~~ under any agreement, arrangement or understanding, whether or not in writing, with the interested stockholder or any affiliate or associate of the interested stockholder.

5. ~~{Any}~~ *Except for any transaction or series of transactions that would not constitute a combination pursuant to subsection 3, any:*

(a) Reclassification of securities, including, without limitation, any splitting of shares, *share* dividend, ~~{distributed in shares}~~ or other distribution of shares with respect to other shares, or any issuance of new shares in exchange for a proportionately greater number of old shares;

(b) Recapitalization of the resident domestic corporation;

(c) Merger or consolidation of the resident domestic corporation with any subsidiary of the resident domestic corporation; or

(d) Other transaction, whether or not with or into or otherwise involving the interested stockholder,

~~↪ {proposed by, or}~~ under any agreement, arrangement or understanding, whether or not in writing, with the interested stockholder or any affiliate or associate of the interested stockholder, which has the *immediate and proximate* effect ~~{directly or indirectly}~~ of increasing the proportionate share of the outstanding shares of any class or series of voting shares or securities convertible into voting shares of the resident domestic corporation or any subsidiary of the resident domestic corporation which is ~~{directly or indirectly}~~ *beneficially* owned by the interested stockholder or any affiliate or associate of the interested stockholder, except as a result of immaterial changes because of adjustments of fractional shares.

6. Any receipt by the interested stockholder or any affiliate or associate of the interested stockholder of the benefit, directly or indirectly, except proportionately as a stockholder of the resident domestic corporation, of any loan, advance, guarantee, pledge or other financial assistance or any tax credit or other tax advantage provided by or through the resident domestic corporation.

Sec. 34. NRS 78.418 is hereby amended to read as follows:

78.418 1. Except as otherwise provided in subsection 2:

(a) "Control," used alone or in the terms "controlling," "controlled by" and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

(b) A person's beneficial ownership of 10 percent or more of the voting power of a corporation's outstanding voting shares creates a presumption that the person has control of the corporation ~~{}~~:

(1) In the absence of proof by a preponderance of the evidence to the contrary; or

(2) Unless any other stockholder of the corporation, other than an affiliate or associate of the person, is the beneficial owner of an equal or greater percentage of the voting power of the corporation's outstanding voting shares.

2. A person is not considered to have control of a corporation if the person holds voting power, in good faith and not for the purpose of

circumventing the provisions of this chapter, as an agent, bank, broker, nominee, custodian or trustee for one or more beneficial owners who do not individually or as a group have control of the corporation.

Sec. 35. NRS 78.423 is hereby amended to read as follows:

78.423 1. "Interested stockholder," when used in reference to any resident domestic corporation, means any person, other than the resident domestic corporation or any subsidiary of the resident domestic corporation, who is:

(a) The beneficial owner, directly or indirectly, of 10 percent or more of the voting power of the outstanding voting shares of the resident domestic corporation; or

(b) An affiliate or associate of the resident domestic corporation and at any time within ~~3~~ 2 years immediately before the date in question was the beneficial owner, directly or indirectly, of 10 percent or more of the voting power of the then outstanding shares of the resident domestic corporation.

2. To determine whether a person is an interested stockholder, the number of voting shares of the resident domestic corporation considered to be outstanding includes shares considered to be beneficially owned by that person through the application of NRS 78.414, but does not include any other unissued shares of a class of voting shares of the resident domestic corporation which may be issuable *to any person, other than the interested stockholder and its affiliates and associates*, under any agreement, arrangement or understanding, or upon exercise of rights to convert, warrants or options, or otherwise.

Sec. 36. NRS 78.424 is hereby amended to read as follows:

78.424 "Market value," when used in reference to the shares or property of any resident domestic corporation, means:

1. In the case of shares, the highest closing sale price of a share during the 30 *calendar* days immediately preceding the date in question ~~for the composite tape for shares listed on the New York Stock Exchange, or, if the shares are not quoted on the composite tape or not listed on the New York Stock Exchange,~~ on the principal United States securities exchange registered under the Securities Exchange Act on which the shares are listed, or, if the shares are not listed on any such exchange, the fair market value on the date in question of a share as determined by the board of directors of the resident domestic corporation in good faith.

2. In the case of property other than cash or shares, the fair market value of the property on the date in question as determined by the board of directors of the resident domestic corporation in good faith.

Sec. 37. NRS 78.426 is hereby amended to read as follows:

78.426 "Preferred shares" means any class or series of shares of a resident domestic corporation that under the ~~bylaws or~~ articles of incorporation of the resident domestic corporation:

1. Is entitled to receive payment of dividends before any payment of dividends on some other class or series of shares; or

2. Is entitled in the event of any voluntary liquidation, dissolution or winding up of the corporation to receive payment or distribution of a preferential amount before any payments or distributions are received by some other class or series of shares.

Sec. 38. NRS 78.429 is hereby amended to read as follows:

78.429 "Share" means:

1. Any share *of stock* or similar security, any certificate of interest, any participation in any profit-sharing agreement, any voting-trust certificate, or any certificate of deposit for a share ~~{-}~~, *in each case representing, directly or indirectly, equity ownership;* and

2. Any security convertible, with or without consideration, into shares, or any warrant, call or other option or privilege of buying shares without being bound to do so, or any other security carrying any right to acquire, subscribe to, or purchase shares.

Sec. 39. NRS 78.431 is hereby amended to read as follows:

78.431 "Subsidiary" of any resident domestic corporation means any other ~~{corporation}~~ *entity* of which a majority of the ~~{outstanding voting shares whose votes are entitled to be cast are owned,}~~ *voting power is held,* directly or indirectly, by the resident domestic corporation.

Sec. 40. NRS 78.433 is hereby amended to read as follows:

78.433 **1.** NRS 78.411 to 78.444, inclusive, *and section 14 of this act* do not apply to any combination of a resident domestic corporation:

~~{-}~~ **(a)** Which ~~{does}~~ *was* not, as of the date that the person first becomes an interested stockholder, ~~{have a class of voting shares registered with the Securities and Exchange Commission under section 12 of the Securities Exchange Act,}~~ *a publicly traded corporation,* unless the corporation's articles of incorporation provide otherwise.

~~{-}~~ **(b)** Whose articles of incorporation have been amended to provide that the resident domestic corporation is subject to NRS 78.411 to 78.444, inclusive, *and section 14 of this act* and which ~~{did}~~ *was* not ~~{have a class of voting shares registered with the Securities and Exchange Commission under section 12 of the Securities Exchange Act,}~~ *a publicly traded corporation* on the effective date of the amendment, if the combination is with a person who first became an interested stockholder before the effective date of the amendment.

2. *The articles of incorporation of a resident domestic corporation may impose on combinations of the resident domestic corporation stricter requirements than the requirements of NRS 78.411 to 78.444, inclusive, and section 14 of this act.*

3. *The provisions of NRS 78.411 to 78.444, inclusive, and section 14 of this act do not restrict the directors of a resident domestic corporation from taking action to protect the interests of the corporation and its stockholders, including, without limitation, adopting or signing plans, arrangements or instruments that grant or deny rights, privileges, power or*

authority to a holder or holders of a specified number of shares or percentage of share ownership or voting power.

Sec. 41. NRS 78.434 is hereby amended to read as follows:

78.434 NRS 78.411 to 78.444, inclusive, *and section 14 of this act* do not apply to any combination of a resident domestic corporation:

1. Whose original articles of incorporation contain a provision expressly electing not to be governed by NRS 78.411 to 78.444, inclusive, *and section 14 of this act*, unless the articles of incorporation are subsequently amended to provide that the corporation is subject to NRS 78.411 to 78.444, inclusive ~~to~~, *and section 14 of this act*;

2. Whose articles of incorporation have been amended pursuant to subsection 1 and the combination is with a person who first became an interested stockholder before the effective date of the amendment;

3. Which, within 30 days after October 1, 1991, adopts an amendment to its bylaws expressly electing not to be governed by NRS 78.411 to 78.444, inclusive, *and section 14 of this act*, which may be rescinded by subsequent amendment of the bylaws;

4. Which adopts an amendment to its articles of incorporation, approved by the affirmative vote of the holders ~~to~~ *other than interested stockholders and their affiliates and associates,* of *stock representing* a majority of the outstanding voting power of the resident domestic corporation ~~to~~ *excluding the voting shares of* *not beneficially owned by* interested stockholders ~~and~~ *or* their affiliates and associates, expressly electing not to be governed by NRS 78.411 to 78.444, inclusive, *and section 14 of this act*, but the amendment to the articles of incorporation is not effective until 18 months after the vote of the resident domestic corporation's stockholders and does not apply to any combination of the resident domestic corporation with a person who first became an interested stockholder on or before the effective date of the amendment; or

5. Whose articles of incorporation were amended to contain a provision expressly electing not to be governed by NRS 78.411 to 78.444, inclusive, *and section 14 of this act*, before the date the corporation first became a resident domestic corporation.

Sec. 42. NRS 78.436 is hereby amended to read as follows:

78.436 NRS 78.411 to 78.444, inclusive, *and section 14 of this act* do not apply to any combination of a resident domestic corporation with an interested stockholder of the resident domestic corporation who became an interested stockholder inadvertently, if the interested stockholder:

1. As soon as practicable ~~to~~ *and before the date of consummation with respect to the combination*, divests ~~himself or herself of~~ a sufficient amount of the voting power of the corporation so that ~~he or she~~ *the interested stockholder* no longer is the beneficial owner, directly or indirectly, of 10 percent or more of the outstanding voting power of the resident domestic corporation; and

2. Would not at any time within ~~13 years~~ **12 months** preceding the date of announcement with respect to the combination have been an interested stockholder but for the inadvertent acquisition.

Sec. 43. NRS 78.438 is hereby amended to read as follows:

78.438 1. Except as otherwise provided in NRS 78.433 to 78.437, inclusive, a resident domestic corporation may not engage in any combination with any interested stockholder of the resident domestic corporation for ~~13~~ **2** years after the date that the person first became an interested stockholder unless ~~the~~ :

(a) *The combination or the transaction by which the person first became an interested stockholder is approved by the board of directors of the resident domestic corporation before the person first became an interested stockholder* ~~13~~ ; or

(b) *The combination is approved by the board of directors of the resident domestic corporation and, at or after that time, the combination is approved at an annual or special meeting of the stockholders of the resident domestic corporation, and not by written consent, by the affirmative vote of the holders of stock representing at least 60 percent of the outstanding voting power of the resident domestic corporation not beneficially owned by the interested stockholder or the affiliates or associates of the interested stockholder.*

2. If a proposal in good faith regarding a combination is made in writing to the board of directors of the resident domestic corporation, the board of directors shall respond, in writing, within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, setting forth its reasons for its decision regarding the proposal.

3. If a proposal in good faith to enter into a transaction by which the person will become an interested stockholder is made in writing to the board of directors of the resident domestic corporation, the board of directors, unless it responds affirmatively in writing within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, is considered to have disapproved the transaction.

Sec. 44. NRS 78.439 is hereby amended to read as follows:

78.439 A resident domestic corporation may not engage in any combination with an interested stockholder of the resident domestic corporation after the expiration of ~~13~~ **2** years after the person first became an interested stockholder other than a combination meeting all of the requirements of the articles of incorporation of the resident domestic corporation and either the requirements specified in subsection 1, 2 or 3 or all of the requirements specified in NRS 78.441 to 78.444, inclusive ~~13~~ , **and section 14 of this act:**

1. ~~13~~ **The** combination ~~was~~ approved by the board of directors of the resident domestic corporation before ~~the date that the~~ **such** person first became an interested stockholder.

2. ~~{A combination with an interested stockholder if the}~~ **The** transaction by which the person **first** became an interested stockholder was approved by the board of directors of the resident domestic corporation before the person **first** became an interested stockholder.

3. ~~{A}~~ **The combination approved is at an annual or special meeting of the stockholders of the resident domestic corporation held no earlier than 2 years after the date that the person first became an interested stockholder, and not by written consent,** by the affirmative vote of the holders of stock representing a majority of the outstanding voting power **of the resident domestic corporation** not beneficially owned by the interested stockholder ~~{proposing the combination,}~~ or any affiliate or associate of the interested stockholder . ~~{proposing the combination, at a meeting called for that purpose no earlier than 3 years after the date that the person first became an interested stockholder.}~~

Sec. 45. NRS 78.441 is hereby amended to read as follows:

78.441 ~~{A}~~ **As an alternative to a combination ~~{engaged in}~~ satisfying the requirements of subsection 1, 2 or 3 of NRS 78.439, a combination** with an interested stockholder of the resident domestic corporation **engaged in** more than ~~{3}~~ **2** years after the date that the person first became an interested stockholder ~~{may be}~~ is permissible if **the requirements of NRS 78.442, 78.443 and 78.444 are satisfied and** the aggregate amount of the cash and the market value, as of the date of consummation, of consideration other than cash to be received per share by all of the holders of outstanding common shares of the resident domestic corporation not beneficially owned by ~~{the}~~ **such** interested stockholder immediately before that date is at least equal to the higher of the following:

1. The highest price per share paid by the interested stockholder, at a time when ~~{he or she}~~ **the interested stockholder** was the beneficial owner, directly or indirectly, of 5 percent or more of the outstanding voting shares of the corporation, for any common shares of the same class or series acquired by the interested stockholder within ~~{3}~~ **2** years immediately before the date of announcement with respect to the combination or within ~~{3}~~ **2** years immediately before, or in, the transaction in which ~~{he or she}~~ **the person** became an interested stockholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which the highest price per share was paid through the date of consummation at the rate for one-year obligations of the United States Treasury ~~{from time to time}~~ in effect ~~{}~~ **on that earliest date**, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per common share since ~~{the}~~ **that** earliest date . ~~{, but no more may be subtracted than the amount of the interest.}~~

2. The market value per common share on the date of announcement with respect to the combination or on the date that the person first became an interested stockholder, whichever is higher, plus interest compounded annually from that date through the date of consummation at the rate for

one-year obligations of the United States Treasury ~~{from time to time}~~ in effect ~~{}~~ **on that date**, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per common share since that date . ~~{, but no more may be subtracted than the amount of the interest.}~~

Sec. 46. NRS 78.442 is hereby amended to read as follows:

78.442 ~~{A}~~ **As an alternative to a combination ~~{engaged in}~~ satisfying the requirements of subsection 1, 2 or 3 of NRS 78.439, a combination** with an interested stockholder of the resident domestic corporation ***engaged in*** more than ~~{3}~~ **2** years after the date that the person first became an interested stockholder ~~{may be}~~ is permissible if ***the requirements of NRS 78.441, 78.443 and 78.444 are satisfied and*** the aggregate amount of the cash and the market value, as of the date of consummation, of consideration other than cash to be received per share by all of the holders of outstanding shares of any class or series of shares, other than common shares, of the resident domestic corporation not beneficially owned by the interested stockholder immediately before that date is at least equal to the highest of the following, whether or not the interested stockholder has previously acquired any shares of the class or series of shares:

1. The highest price per share paid by the interested stockholder, at a time when ~~{he or she}~~ **the interested stockholder** was the beneficial owner, directly or indirectly, of 5 percent or more of the outstanding voting shares of the corporation, for any shares of that class or series of shares acquired by the interested stockholder within ~~{3}~~ **2** years immediately before the date of announcement with respect to the combination or within ~~{3}~~ **2** years immediately before, or in, the transaction in which ~~{he or she}~~ **the person** became an interested stockholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which the highest price per share was paid through the date of consummation at the rate for one-year obligations of the United States Treasury ~~{from time to time}~~ in effect ~~{}~~ **on that earliest date**, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per share of the class or series of shares since ~~{the}~~ **that** earliest date . ~~{, but no more may be subtracted than the amount of the interest.}~~

2. ***The amount specified in the articles of incorporation of the resident domestic corporation, including in any certificate of designation for the class or series, to which the holders of shares of the class or series of shares are entitled upon the consummation of a transaction of a type encompassing the combination, determined as if the transaction had been consummated on the date of consummation with respect to the combination or on the date that the interested stockholder first became an interested stockholder, whichever is higher or, if the articles of incorporation, including any certificate of designation, do not so provide, the highest preferential amount per share to which the holders of shares of the class or series of shares are entitled in the event of any voluntary***

liquidation, dissolution or winding up of the resident domestic corporation, plus the aggregate amount of any dividends declared or due to which the holders are entitled before payment of the dividends on some other class or series of shares, unless the aggregate amount of the dividends is included in the preferential amount.

3. The market value per share of the class or series of shares on the date of announcement with respect to the combination or on the date that the person first became an interested stockholder, whichever is higher, plus interest compounded annually from that date through the date of consummation at the rate for one-year obligations of the United States Treasury ~~from time to time~~ in effect ~~it~~ **on that date**, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per share of the class or series of shares since that date. ~~but no more may be subtracted than the amount of the interest.~~

Sec. 47. NRS 78.443 is hereby amended to read as follows:

78.443 The consideration to be received by holders of a particular class or series of outstanding shares, including common shares, of the resident domestic corporation in ~~the~~ **a** combination pursuant to NRS 78.441 and 78.442 ~~it~~ must be in cash or in the same form as the interested stockholder has used to acquire the largest number of shares of the class or series of shares previously acquired by ~~it~~ **the interested stockholder**, and the consideration must be distributed promptly.

Sec. 48. NRS 78.444 is hereby amended to read as follows:

78.444 ~~A combination may be~~ **As an alternative to a combination satisfying the requirements of subsection 1, 2 or 3 of NRS 78.439, a combination with an interested stockholder of the resident domestic corporation engaged in more than 2 years after the date that the person first became an interested stockholder is** permissible if **the requirements of NRS 78.441, 78.442 and 78.443 are satisfied and**, after the date that ~~the~~ **such** person first became an interested stockholder and before the date of consummation with respect to the combination, the interested stockholder has not become the beneficial owner of any additional voting shares of the resident domestic corporation except:

1. As part of the transaction that resulted in the person becoming an interested stockholder;

2. By virtue of ~~proportionate splitting of shares, dividends distributed in shares, or other distributions of shares in respect of shares~~ **any transaction or series of transactions** not constituting a combination;

3. Through a combination meeting ~~all of~~ the ~~conditions~~ **requirements** of NRS 78.439; or

4. Through a purchase at any price that, if the price had been paid in an otherwise permissible combination whose date of announcement and date of consummation were the date of the purchase, would have satisfied the requirements of NRS 78.441, 78.442 and 78.443.

Sec. 49. NRS 78.580 is hereby amended to read as follows:

78.580 1. If the board of directors of any corporation organized under this chapter ~~after the issuance of stock or the beginning of business,~~ decides that the corporation should be dissolved, the board may adopt a resolution to that effect.

2. If the corporation has issued no stock, only the directors need to approve the dissolution.

3. If the corporation has issued stock, the directors must recommend the dissolution to the stockholders. ***The board of directors may condition its submission of the proposal for dissolution on any lawful basis.*** The corporation shall notify each stockholder, ***whether or not*** entitled to vote on dissolution, ***of the proposed dissolution*** and the stockholders entitled to vote must approve the dissolution.

~~12-~~ 4. If the dissolution is approved by the directors or both the directors and stockholders, as respectively provided in ~~subsection 1,~~ ***subsections 2 and 3,*** the corporation shall file with the ~~Office of the~~ Secretary of State a certificate signed by an officer of the corporation setting forth that the dissolution has been approved by the directors, or by the directors and the stockholders, and a list of the names and addresses, either residence or business, of the corporation's president, secretary and treasurer, or the equivalent thereof, and all of its directors.

~~13-~~ 5. The dissolution takes effect ~~upon~~ ***at the time of the*** filing of the certificate of dissolution ~~with the Office of the~~ ***Secretary of State*** or upon a later date ***and time as*** specified in the certificate, which ***date*** must be not more than 90 days after the date on which the certificate is filed. ***If a certificate of dissolution specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 50. NRS 78.585 is hereby amended to read as follows:

78.585 The dissolution of a corporation does not impair any remedy or cause of action available to or against it or its directors, officers or shareholders arising before its dissolution and commenced within 2 years after the date of the dissolution. ~~##~~ ***The corporation*** continues as a body corporate for the purpose of prosecuting and defending suits, actions, proceedings and claims of any kind or character by or against it and of enabling it gradually to settle and close its business, ***to collect its assets,*** to collect and discharge its obligations, to dispose of and convey its property, ~~and~~ to distribute its ~~assets,~~ ***money and other property among the stockholders, after paying or adequately providing for the payment of its liabilities and obligations, and to do every other act to wind up and liquidate its business and affairs,*** but not for the purpose of continuing the business for which it was established.

Sec. 51. NRS 78.590 is hereby amended to read as follows:

78.590 1. Upon the dissolution of any corporation under the provisions of NRS 78.580, or upon the expiration of the period of its corporate existence, limited by its articles of incorporation, the directors become

trustees thereof, with full power to ~~settle the affairs, collect the outstanding debts, sell and convey the property, real and personal, and divide the~~ *prosecute and defend suits, actions, proceedings and claims of any kind or character by or against the corporation and of enabling the corporation gradually to settle and close its business, to collect its assets, to collect and discharge its obligations, to dispose of and convey its property, and to distribute its* money and other property among the stockholders, after paying or adequately providing for the payment of its liabilities and obligations ~~††~~, *and to do every other act to wind up and liquidate its business and affairs, but not for the purpose of continuing the business for which the corporation was established.*

2. After paying or adequately providing for the liabilities and obligations of the corporation, the trustees, with the written consent of stockholders holding stock in the corporation entitling them to exercise at least a majority of the voting power, may sell the remaining assets or any part thereof to a corporation organized under the laws of this or any other state, and take in payment therefor the stock or bonds, or both, of that corporation and distribute them among the stockholders of the liquidated corporation, in proportion to their interest therein. No such sale is valid as against any stockholder who, within 30 days after the mailing of notice to the stockholder of the sale, applies to the district court for an appraisal of the value of his or her interest in the assets so sold, and unless within 30 days after the appraisal is confirmed by the court the stockholders consenting to the sale, or some of them, pay to the objecting stockholder or deposit for the objecting stockholder's account, in the manner directed by the court, the amount of the appraisal. Upon the payment or deposit the interest of the objecting stockholder vests in the person or persons making the payment or deposit.

3. *In winding up and liquidating the business and affairs of the corporation, the trustees have ‡*

~~†(a) The~~ *the duties imposed upon them, ‡* ~~by subsection 1 of NRS 78.138,†~~

~~and~~ ~~†(b) The~~ *the benefit of the presumptions established, ‡* ~~by subsection 3 of NRS 78.138.~~

Sec. 52. NRS 78.746 is hereby amended to read as follows:

78.746 1. On application to a court of competent jurisdiction by ~~†a~~ *any* judgment creditor of a stockholder, the court may charge the stockholder's stock with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the stockholder's stock.

2. ~~†This~~ *Subject to the provisions of NRS 78.747, this* section:

(a) *Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stock of the judgment debtor. No other remedy, including, without limitation, foreclosure on the stockholder's stock or a court order for directions, accounts and inquiries that the debtor or stockholder might*

have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's interest in the corporation, and no other remedy may be ordered by a court.

(b) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.

(c) Applies only to a corporation that:

(1) Has ~~more than 1 but~~ fewer than 100 stockholders of record at any time.

*(2) Is not a **publicly traded corporation or a** subsidiary of a publicly traded corporation, either in whole or in part.*

(3) Is not a professional corporation as defined in NRS 89.020.

~~[(b)]~~ *(d) Does not apply to any liability of a stockholder that exists as the result of an action filed before July 1, 2007.*

~~[(c) Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stockholder's stock of the corporation.~~

~~[(d) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.]~~

*(e) Does not supersede any ~~private~~ **written** agreement between a stockholder and a creditor if the ~~private~~ **written** agreement does not conflict with the corporation's articles of incorporation, bylaws or any shareholder agreement to which the stockholder is a party.*

3. As used in this section, "rights of an assignee" means the rights to receive the share of the distributions or dividends paid by the corporation to which the judgment debtor would otherwise be entitled. The term does not include the rights to participate in the management of the business or affairs of the corporation or to become a director of the corporation.

Sec. 53. NRS 78.751 is hereby amended to read as follows:

78.751 1. Any discretionary indemnification pursuant to NRS 78.7502, unless ordered by a court or advanced pursuant to subsection 2, may be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances. The determination must be made:

(a) By the stockholders;

(b) By the board of directors by majority vote of a quorum consisting of directors who were not parties to the action, suit or proceeding;

(c) If a majority vote of a quorum consisting of directors who were not parties to the action, suit or proceeding so orders, by independent legal counsel in a written opinion; or

(d) If a quorum consisting of directors who were not parties to the action, suit or proceeding cannot be obtained, by independent legal counsel in a written opinion.

2. The articles of incorporation, the bylaws or an agreement made by the corporation may provide that the expenses of officers and directors incurred in defending a civil or criminal action, suit or proceeding must be paid by the

corporation as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the director or officer to repay the amount if it is ultimately determined by a court of competent jurisdiction that the director or officer is not entitled to be indemnified by the corporation. The provisions of this subsection do not affect any rights to advancement of expenses to which corporate personnel other than directors or officers may be entitled under any contract or otherwise by law.

3. The indemnification pursuant to NRS 78.7502 and advancement of expenses authorized in or ordered by a court pursuant to this section:

(a) Does not exclude any other rights to which a person seeking indemnification or advancement of expenses may be entitled under the articles of incorporation or any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, for either an action in the person's official capacity or an action in another capacity while holding office, except that indemnification, unless ordered by a court pursuant to NRS 78.7502 or for the advancement of expenses made pursuant to subsection 2, may not be made to or on behalf of any director or officer if a final adjudication establishes that the director's or officer's acts or omissions involved intentional misconduct, fraud or a knowing violation of the law and was material to the cause of action. *A right to indemnification or to advancement of expenses arising under a provision of the articles of incorporation or any bylaw is not eliminated or impaired by an amendment to such provision after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.*

(b) Continues for a person who has ceased to be a director, officer, employee or agent and inures to the benefit of the heirs, executors and administrators of such a person.

Sec. 54. NRS 78.760 is hereby amended to read as follows:

78.760 1. The fee for filing articles of incorporation is prescribed in the following schedule:

If the amount represented by the total number of shares provided for in the articles is:

\$75,000 or less.....	\$75
Over \$75,000 and not over \$200,000	175
Over \$200,000 and not over \$500,000	275
Over \$500,000 and not over \$1,000,000	375
Over \$1,000,000:	
For the first \$1,000,000	375
For each additional \$500,000 or fraction thereof.....	275

2. The maximum fee which may be charged pursuant to this section : ~~is \$35,000 for:~~

- (a) ~~The~~ **Is \$35,000 for the** original filing of **the** articles of incorporation.
- (b) ~~A~~ subsequent filing of any instrument which authorizes an increase in stock.

3. For the purposes of computing the filing fees according to the schedule in subsection 1, the amount represented by the total number of shares provided for in the articles of incorporation is:

- (a) The aggregate par value of the shares, if only shares with a par value are therein provided for;
- (b) The product of the number of shares multiplied by \$1, regardless of any lesser amount prescribed as the value or consideration for which shares may be issued and disposed of, if only shares without par value are therein provided for; or
- (c) The aggregate par value of the shares with a par value plus the product of the number of shares without par value multiplied by \$1, regardless of any lesser amount prescribed as the value or consideration for which the shares without par value may be issued and disposed of, if shares with and without par value are therein provided for.

➔ For the purposes of this subsection, shares with no prescribed par value shall be deemed shares without par value.

4. The Secretary of State shall calculate filing fees pursuant to this section with respect to shares with a par value of less than one-tenth of a cent as if the par value were one-tenth of a cent.

Sec. 55. NRS 78A.180 is hereby amended to read as follows:

78A.180 1. A corporation may voluntarily terminate its status as a close corporation, and cease to be subject to the provisions of this chapter, by amending the certificate of incorporation to delete therefrom the additional provisions required or permitted by NRS 78A.020 to be stated in the certificate of incorporation of a close corporation. An amendment must be adopted and become effective in accordance with NRS 78.390, except that it must be approved by a vote of the holders of record of at least two-thirds of the voting shares of each class of stock of the corporation that are outstanding.

2. The certificate of incorporation of a close corporation may provide that on any amendment to terminate the status as a close corporation, a vote greater than two-thirds or a vote of all shares of any class may be required. If the certificate of incorporation contains such a provision, that provision may not be amended, repealed or modified by any vote less than that required to terminate the status of the corporation as a close corporation.

3. A certificate filed pursuant to this section is effective ~~upon~~ **at the time of the** filing **of** the certificate with the Secretary of State or upon a later date **and time as** specified in the certificate, which **date** must not be more than 90 days after the **date on which the** certificate is filed. **If the certificate specifies a later effective date but does not specify an effective time, the**

certificate becomes effective at 12:01 a.m. in the Pacific time zone on the specified later date.

~~Sec. 56. NRS 80.015 is hereby amended to read as follows:~~

~~80.015 1. For the purposes of this chapter, the following activities do not constitute doing business in this State:~~

- ~~(a) Maintaining, defending or settling any proceeding;~~
- ~~(b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;~~
- ~~(c) Maintaining accounts in banks or credit unions;~~
- ~~(d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;~~
- ~~(e) Making sales through independent contractors;~~
- ~~(f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside of this State and filling them by shipping goods into this State;~~
- ~~(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;~~
- ~~(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;~~
- ~~(i) Owning, without more, real or personal property;~~
- ~~(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;~~
- ~~(k) The production of motion pictures as defined in NRS 231.020;~~
- ~~(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and~~
- ~~(m) Transacting business in interstate commerce.~~

~~2. The list of activities in subsection 1 is not exhaustive.~~

~~3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS or title 55 or 56 of NRS unless the person:~~

- ~~(a) Maintains an office in this State for the transaction of business;~~
- ~~(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS;~~
- ~~(c) Solicits business for the activities of a mortgage broker as defined by NRS 645B.0127 or the activities of a mortgage banker as defined by NRS 645E.100 [;], except to the extent such activities relate to a mortgage loan secured by real property which is commercial property as defined by NRS 645E.040; or~~

~~(d) Arranges a mortgage loan secured by real property which is not commercial property as defined by NRS 645E.040.~~

~~4. The fact that a person is not doing business in this State within the meaning of this section:~~

~~(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and~~

~~(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.~~

~~5. As used in this section and for the purposes of NRS 80.016, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.~~ **(Deleted by amendment.)**

Sec. 57. NRS 80.190 is hereby amended to read as follows:

80.190 1. Except as otherwise provided in subsection 2, each foreign corporation doing business in this State shall, not later than the month of March in each year, publish a statement ~~for its last calendar year's business~~ in two numbers or issues of a newspaper published in this State that has a total weekly circulation of at least 1,000. The statement must include:

- (a) The name of the corporation.
- (b) The name and title of the corporate officer submitting the statement.
- (c) The mailing or street address of the corporation's principal office.
- (d) The mailing or street address of the corporation's office in this State, if one exists.

2. If the corporation keeps its records on the basis of a fiscal year other than the calendar, the statement required by subsection 1 must be published not later than the end of the third month following the close of each fiscal year.

3. A corporation which neglects or refuses to publish a statement as required by this section is liable to a penalty of \$100 for each month that the statement remains unpublished.

4. Any district attorney in the State or the Attorney General may sue to recover the penalty. The first county suing through its district attorney shall recover the penalty, and if no suit is brought for the penalty by any district attorney, the State may recover through the Attorney General.

Sec. 58. NRS 82.006 is hereby amended to read as follows:

82.006 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 82.011 to ~~82.044,~~ **82.041**, inclusive, have the meanings ascribed to them in those sections.

Sec. 59. NRS 82.346 is hereby amended to read as follows:

82.346 1. If the first meeting of the directors has not taken place and if there are no members, a majority of the incorporators of a corporation may amend the original articles by signing and proving in the manner required for

original articles, and filing with the Secretary of State a certificate amending, modifying, changing or altering the original articles, in whole or in part. The certificate must state that:

(a) The signers thereof are a majority of the original incorporators of the corporation; and

(b) As of the date of the certification, no meeting of the directors has taken place and the corporation has no members other than the incorporators.

2. A certificate filed pursuant to this section is effective ~~upon~~ **at the time of the** filing of the certificate with the Secretary of State or upon a later date **and time as** specified in the certificate, which **date** must not be more than 90 days after the **date on which the** certificate is filed. ***If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

3. This section does not permit the insertion of any matter not in conformity with this chapter.

4. The Secretary of State shall charge the fee allowed by law for filing the amended certificate of incorporation.

Sec. 60. NRS 82.356 is hereby amended to read as follows:

82.356 1. Except as otherwise provided in NRS 77.340, each amendment adopted pursuant to the provisions of NRS 82.351 must be made in the following manner:

(a) The board of directors must adopt a resolution setting forth the amendment proposed, approve it and, if the corporation has members entitled to vote on an amendment to the articles, call a meeting, either annual or special, of the members. The amendment must also be approved by each public official or other person whose approval of an amendment of articles is required by the articles.

(b) At the meeting of members, of which notice must be given to each member entitled to vote pursuant to the provisions of this section, a vote of the members entitled to vote in person or by proxy must be taken for and against the proposed amendment. A majority of a quorum of the voting power of the members or such greater proportion of the voting power of members as may be required in the case of a vote by classes, as provided in subsection 3, or as may be required by the articles, must vote in favor of the amendment.

(c) Upon approval of the amendment by the directors, or if the corporation has members entitled to vote on an amendment to the articles, by both the directors and those members, and such other persons or public officers, if any, as are required to do so by the articles, an officer of the corporation must sign a certificate setting forth the amendment, or setting forth the articles as amended, that the public officers or other persons, if any, required by the articles have approved the amendment, and the vote of the members and directors by which the amendment was adopted.

(d) The certificate so signed must be filed in the Office of the Secretary of State.

2. A certificate filed pursuant to this section is effective ~~upon~~ **at the time of the** filing of the certificate with the Secretary of State or upon a later date **and time as** specified in the certificate, which **date** must not be more than 90 days after the **date on which the** certificate is filed. ***If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

3. If any proposed amendment would alter or change any preference or any relative or other right given to any class of members, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of a majority of a quorum of the voting power of each class of members affected by the amendment regardless of limitations or restrictions on their voting power.

4. In the case of any specified amendments, the articles may require a larger vote of members than that required by this section.

Sec. 61. NRS 82.371 is hereby amended to read as follows:

82.371 1. A corporation may restate, or amend and restate, in a single certificate the entire text of its articles as amended by filing with the Secretary of State a certificate which must set forth the articles as amended to the date of the certificate. If the certificate alters or amends the articles in any manner, it must comply with the provisions of NRS 82.346, 82.351 and 82.356, as applicable, and must be accompanied by a form prescribed by the Secretary of State setting forth which provisions of the articles of incorporation on file with the Secretary of State are being altered or amended.

2. If the certificate does not alter or amend the articles, it must be signed by an officer of the corporation and must state that the officer has been authorized to sign the certificate by resolution of the board of directors adopted on the date stated, and that the certificate correctly sets forth the text of the articles as amended to the date of the certificate.

3. The following may be omitted from the restated articles:

(a) The names, addresses, signatures and acknowledgments of the incorporators;

(b) The names and addresses of the members of the past and present board of directors; and

(c) The information required pursuant to NRS 77.310.

4. Whenever a corporation is required to file a certified copy of its articles, in lieu thereof it may file a certified copy of the most recent certificate restating its articles as amended, subject to the provisions of subsection 2, together with certified copies of all certificates of amendment filed after the restated articles and certified copies of all certificates supplementary to the original articles.

5. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the*** filing of the certificate with the Secretary of State or upon a later date ***and time as*** specified in the certificate, which ***date*** must not be more than 90 days after the ***date on which the*** certificate is filed. ***If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 62. NRS 82.451 is hereby amended to read as follows:

82.451 1. A corporation may be dissolved and its affairs wound up voluntarily if the board of directors adopts a resolution to that effect and calls a meeting of the members entitled to vote to take action upon the resolution. The resolution must also be approved by any person or superior organization whose approval is required by a provision of the articles authorized by NRS 82.091. The meeting of the members must be held with due notice. If at the meeting the members entitled to exercise a majority of all the voting power consent by resolution to the dissolution, a certificate signed by an officer of the corporation setting forth that the dissolution has been approved in compliance with this section, together with a list of the names and addresses, either residence or business, of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the corporation, must be filed in the Office of the Secretary of State.

2. If a corporation has no members entitled to vote upon a resolution calling for the dissolution of the corporation, the corporation may be dissolved and its affairs wound up voluntarily by the board of directors if it adopts a resolution to that effect. The resolution must also be approved by any person or superior organization whose approval is required by a provision of the articles authorized by NRS 82.091. A certificate setting forth that the dissolution has been approved in compliance with this section and a list of the officers and directors, signed as provided in subsection 1, must be filed in the Office of the Secretary of State.

3. Upon the dissolution of any corporation under the provisions of this section or upon the expiration of its period of corporate existence, the directors are the trustees of the corporation in liquidation and in winding up the affairs of the corporation. The act of a majority of the directors as trustees remaining in office is the act of the directors as trustees.

4. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the*** filing of the certificate with the Secretary of State or upon a later date ***and time as*** specified in the certificate, which ***date*** must not be more than 90 days after the ***date on which the*** certificate is filed. ***If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 63. NRS 82.456 is hereby amended to read as follows:

82.456 1. Actions available to or against a corporation or its directors, officers or members are limited as provided in NRS 78.585.

2. A corporation dissolved under this chapter and its directors, trustees, receivers, members, creditors and the district court have all the rights, duties and liabilities they have with respect to dissolved corporations governed by chapter 78 of NRS as provided by NRS 78.585 ~~1-78.595~~ and 78.615.

3. The district court and the clerk of the court have the same powers and duties with respect to dissolved corporations governed by this chapter as they have with respect to dissolved corporations governed by chapter 78 of NRS as provided in NRS 78.600, 78.605, 78.615 and 78.620.

Sec. 64. NRS 86.011 is hereby amended to read as follows:

86.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 86.022 to ~~86.128~~ **86.1255**, inclusive, have the meanings ascribed to them in those sections.

Sec. 65. NRS 86.201 is hereby amended to read as follows:

86.201 1. A limited-liability company is considered legally organized pursuant to this chapter : ~~upon~~

(a) ~~Filing~~ ***At the time of the filing of*** the articles of organization with the Secretary of State , ~~for~~ upon a later date ***and time as*** specified in the articles ~~[of organization]~~ , ***which date must not be more than 90 days after the date on which the articles are filed or, if the articles specify a later effective date but do not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date, whichever is applicable;*** and

(b) ~~Paying~~ ***Upon paying*** the required filing fees to the Secretary of State.

2. A limited-liability company must not transact business or incur indebtedness, except that which is incidental to its organization or to obtaining subscriptions for or payment of contributions, until the company is considered legally organized pursuant to subsection 1.

3. A limited-liability company is an entity distinct from its managers and members.

Sec. 66. NRS 86.216 is hereby amended to read as follows:

86.216 1. For any limited-liability company where management is vested in one or more managers and where no member's interest in the limited-liability company has been issued, at least two-thirds of the organizers or the managers of the limited-liability company may amend the articles of organization of the limited-liability company by signing and filing with the Secretary of State a certificate amending, modifying, changing or altering the articles, in whole or in part. The certificate must state that:

(a) The signers thereof are at least two-thirds of the organizers or the managers of the limited-liability company, and state the name of the limited-liability company; and

(b) As of the date of the certificate, no member's interest in the limited-liability company has been issued.

2. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the filing of*** the certificate with the Secretary of State or upon a later date ***and time as*** specified in the certificate, which ***date*** must not be more than 90 days after the ***date on which the*** certificate is filed. ***If a certificate***

filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.

3. If a certificate filed pursuant to this section specifies ~~that~~ a later effective date and if no member's interest in the limited-liability company has been issued, the managers of the limited-liability company may terminate the effectiveness of the certificate by filing a certificate of termination with the Secretary of State that:

(a) *Is filed before the effective date specified in the certificate filed with the Secretary of State pursuant to subsection 1;*

(b) Identifies the certificate being terminated;

~~(c)~~ (c) States that no member's interest in the limited-liability company has been issued;

~~(d)~~ (d) States that the effectiveness of the certificate has been terminated;

~~(e)~~ (e) Is signed by at least two-thirds of the managers; and

~~(f)~~ (f) Is accompanied by a filing fee of \$175.

4. This section does not permit the insertion of any matter not in conformity with this chapter.

Sec. 67. NRS 86.221 is hereby amended to read as follows:

86.221 1. The articles of organization of a limited-liability company may be amended for any purpose, not inconsistent with law, as determined by all of the members or permitted by the articles or an operating agreement.

2. Except as otherwise provided in NRS 77.340, an amendment must be made in the form of a certificate setting forth:

(a) The name of the limited-liability company;

(b) Whether the limited-liability company is managed by managers or members; and

(c) The amendment to the articles of organization.

3. The certificate of amendment must be signed by a manager of the company or, if management is not vested in a manager, by a member.

4. Restated articles of organization may be signed and filed in the same manner as a certificate of amendment. If the certificate alters or amends the articles in any manner, it must be accompanied by a form prescribed by the Secretary of State setting forth which provisions of the articles of organization on file with the Secretary of State are being altered or amended.

5. The following may be omitted from the restated articles of organization:

(a) The names, addresses, signatures and acknowledgments of the organizers;

(b) The names and addresses of the past and present members or managers; and

(c) The information required pursuant to NRS 77.310.

6. *A certificate of amendment or restated articles of organization filed pursuant to this section are effective at the time of the filing of the*

certificate or restated articles with the Secretary of State or upon a later date and time as specified in the certificate or ~~the~~ restated articles, which date must not be more than 90 days after the date on which the certificate or ~~the~~ restated articles are filed. If a certificate or restated articles filed pursuant to this section specify a later effective date but do not specify an effective time, the certificate or restated articles are effective at 12:01 a.m. in the Pacific time zone on the specified later date.

Sec. 68. NRS 86.226 is hereby amended to read as follows:

86.226 1. A signed certificate of amendment, or a certified copy of a judicial decree of amendment, must be filed with the Secretary of State. A person who signs a certificate as an agent, officer or fiduciary of the limited-liability company need not exhibit evidence of his or her authority as a prerequisite to filing. Unless the Secretary of State finds that a certificate does not conform to law, upon receipt of all required filing fees the Secretary of State shall file the certificate.

2. A certificate of amendment or judicial decree of amendment is effective ~~upon~~ *at the time of the filing of the certificate or judicial decree* with the Secretary of State or upon a later date *and time as* specified in the certificate or judicial decree, which *date* must not be more than 90 days after the certificate or judicial decree is filed. *If a certificate or judicial decree filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the certificate or judicial decree is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

3. If a certificate *filed pursuant to subsection 1* specifies ~~an~~ *a later effective date or a later effective date and time* and if the resolution of the members approving the proposed amendment provides that one or more managers or, if management is not vested in a manager, one or more members may abandon the proposed amendment, then those managers or members may terminate the effectiveness of the certificate by filing a certificate of termination with the Secretary of State that:

(a) Is filed before the effective date *and time* specified in the certificate ~~for judicial decree~~ filed pursuant to subsection 1 ~~it~~ *or, if the certificate specifies a later effective date but does not specify an effective time, on or before the day preceding the specified later date;*

(b) Identifies the certificate being terminated;

(c) States that, pursuant to the resolution of the members, the manager of the company or, if management is not vested in a manager, a designated member is authorized to terminate the effectiveness of the certificate;

(d) States that the effectiveness of the certificate has been terminated;

(e) Is signed by a manager of the company or, if management is not vested in a manager, a designated member; and

(f) Is accompanied by a filing fee of \$175.

Sec. 69. NRS 86.401 is hereby amended to read as follows:

86.401 1. On application to a court of competent jurisdiction by ~~at~~ *any* judgment creditor of a member, the court may charge the member's interest

with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the member's interest.

2. This section:

(a) Provides the exclusive remedy by which a judgment creditor of a member or an assignee of a member may satisfy a judgment out of the member's interest of the judgment debtor ~~††~~, *whether the limited-liability company has one member or more than one member. No other remedy, including, without limitation, foreclosure on the member's interest or a court order for directions, accounts and inquiries that the debtor or member might have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's interest in the limited-liability company, and no other remedy may be ordered by a court.*

(b) Does not deprive any member of the benefit of any exemption applicable to his or her interest.

(c) *Does not supersede any written agreement between a member and a creditor if the written agreement does not conflict with the limited-liability company's articles of organization or operating agreement.*

Sec. 70. NRS 86.541 is hereby amended to read as follows:

86.541 1. The signed articles of dissolution must be filed with the Secretary of State. Articles of dissolution are effective ~~†upon†~~ *at the time of the filing of the articles with the Secretary of State or upon a later date and time as specified in the articles, which date must not be more than 90 days after the date on which the articles are filed. If the articles filed pursuant to this section specify a later effective date but do not specify an effective time, the articles are effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

2. ~~†Upon†~~ *At the time of the filing of the articles of dissolution ~~††~~ ~~†or†~~ with the Secretary of State, upon a later date and time as specified in the articles ~~††~~, which date must not be more than 90 days after the date on which the articles are filed or, if the articles filed pursuant to this section specify a later effective date but do not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date, whichever is applicable,* the existence of the company ceases, except for the purpose of suits, other proceedings and appropriate action as provided in this chapter. The manager or managers in office at the time of dissolution, or the survivors of them, are thereafter trustees for the members and creditors of the dissolved company and as such have authority to distribute any property of the company discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the dissolved company.

Sec. 71. NRS 86.547 is hereby amended to read as follows:

86.547 1. A foreign limited-liability company may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a manager of the company or, if management is not vested in a

manager, a member of the company. The certificate, which must be accompanied by the required fees, must set forth:

- (a) The name of the foreign limited-liability company;
- (b) The effective date **and time** of the cancellation if other than the ~~date~~ **time** of the filing of the certificate of cancellation ~~to~~ **with the Secretary of State**, which **date** must not be more than 90 days after the **date on which the** certificate is filed; and
- (c) Any other information deemed necessary by the manager of the company or, if management is not vested in a manager, a member of the company.

2. ***If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the cancellation of the registration is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

3. A cancellation pursuant to this section does not terminate the authority of the Secretary of State to accept service of process on the foreign limited-liability company with respect to causes of action arising from the transaction of business in this State by the foreign limited-liability company.

Sec. 72. NRS 87.001 is hereby amended to read as follows:

87.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 87.002 ~~to 87.008, inclusive,~~ **and 87.007** have the meanings ascribed to them in those sections.

Sec. 73. NRS 87.460 is hereby amended to read as follows:

87.460 1. A certificate of registration of a registered limited-liability partnership may be amended by filing with the Secretary of State a certificate of amendment. The certificate of amendment must set forth:

- (a) The name of the registered limited-liability partnership; and
- (b) The change to the information contained in the original certificate of registration or any other certificates of amendment.

2. The certificate of amendment must be:

- (a) Signed by a managing partner of the registered limited-liability partnership; and
- (b) Accompanied by a fee of \$175.

3. A certificate filed pursuant to this section is effective ~~upon~~ **at the time of the** filing of the certificate with the Secretary of State or upon a later date **and time as** specified in the certificate, which **date** must not be more than 90 days after the **date on which the** certificate is filed. ***If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 74. NRS 87A.240 is hereby amended to read as follows:

87A.240 1. In order to amend its certificate of limited partnership, a limited partnership must deliver to the Secretary of State for filing an amendment or articles of merger stating:

- (a) The name of the limited partnership; and

(b) The changes the amendment makes to the certificate as most recently amended or restated.

2. A limited partnership shall promptly deliver to the Secretary of State for filing an amendment to a certificate of limited partnership to reflect:

- (a) The admission of a new general partner;
- (b) The withdrawal of a person as a general partner; or
- (c) The appointment of a person to wind up the limited partnership's activities under subsection 3 or 4 of NRS 87A.500.

3. A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:

- (a) Cause the certificate to be amended; or
- (b) If appropriate, deliver to the Secretary of State for filing a certificate of correction pursuant to NRS 87A.275.

4. A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

5. A restated certificate of limited partnership may be delivered to the Secretary of State for filing in the same manner as an amendment.

6. An amendment or restated certificate is effective ~~when filed by~~ **at the time of the filing of the amendment or restated certificate with** the Secretary of State or upon a later date **and time as** specified in the **amendment or restated** certificate, which **date** must not be more than 90 days after the **date on which the amendment or restated** certificate is filed. ***If an amendment or restated certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the amendment or restated certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 75. NRS 87A.480 is hereby amended to read as follows:

87A.480 1. On application to a court of competent jurisdiction by any judgment creditor of a partner, ~~for transferee,~~ the court may charge the ~~transferable~~ **partnership** interest of the ~~judgment debtor~~ **partner** with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of ~~a transferee.~~ The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect ~~an assignee~~ of the partnership ~~and make all other orders, directions, accounts and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.~~ **interest.**

2. ~~A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.~~

3. ~~At any time before foreclosure, an interest charged may be redeemed:~~

- ~~(a) By the judgment debtor;~~

(b) ~~With property other than limited partnership property, by one or more of the other partners; or~~

(c) ~~With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.~~

4. ~~This chapter does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.~~

5. ~~This section provides:~~

(a) ***Provides*** the exclusive remedy by which a judgment creditor of a partner or ~~transferee~~ **an assignee of a partner** may satisfy a judgment out of the **partnership interest of the judgment debtor** ~~debtor's transferable interest.~~ *No other remedy, including, without limitation, foreclosure on the partner's partnership interest or a court order for directions, accounts and inquiries that the debtor or partner might have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's interest in the limited partnership, and no other remedy may be ordered by a court.*

(b) *Does not deprive any partner of the benefit of any exemption laws applicable to the partnership interest of the partner.*

(c) *Does not supersede any written agreement between a partner and creditor if the written agreement does not conflict with the partnership's certificate of limited partnership or partnership agreement.*

Sec. 76. NRS 87A.605 is hereby amended to read as follows:

87A.605 1. A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a general partner. The certificate must set forth:

~~1-1~~ (a) The name of the foreign limited partnership;

~~1-2~~ (b) The reason for filing the certificate of cancellation;

~~1-3~~ (c) The effective date **and time** of the cancellation if other than the ~~date~~ **time** of the filing of the certificate ~~with the Secretary of State,~~ which **date** must not be more than 90 days after the **date on which the** certificate is filed; and

~~1-4~~ (d) Any other information deemed necessary by the general partners of the partnership.

➡ A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this State.

2. *If a certificate filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the cancellation of the registration is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

Sec. 77. NRS 87A.630 is hereby amended to read as follows:

87A.630 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

- (a) The name of the limited partnership.
- (b) The street address of its principal office.
- (c) The information required pursuant to NRS 77.310.
- (d) The name and business address of each organizer signing the certificate.
- (e) The name and business address of each initial general partner.
- (f) That the limited partnership thereafter will be a registered limited-liability limited partnership.
- (g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. A partnership may register as a registered limited-liability limited partnership at the time it files a certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees prescribed in subsections 1 and 2 of NRS 87A.315.

5. The registration of a registered limited-liability limited partnership is effective ~~on~~ ~~at the later of the~~ ~~time of the~~ filing of the certificate of registration with the Secretary of State or upon a later date and time as specified in the certificate of registration ~~11~~, which date must not be more than 90 days after the date on which the certificate of registration is filed.
If the certificate of registration specifies a later effective date but does not specify an effective time, the certificate of registration is effective at 12:01 a.m. in the Pacific time zone on the specified later date.

Sec. 78. NRS 88.315 is hereby amended to read as follows:

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

1. "Certificate of limited partnership" means the certificate referred to in NRS 88.350, and the certificate as amended or restated.

2. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his or her capacity as a partner.

3. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in NRS 88.450.

4. "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this State and having as partners one or more general partners and one or more limited partners.

5. "Foreign registered limited-liability limited partnership" means a foreign limited-liability limited partnership:

(a) Formed pursuant to an agreement governed by the laws of another state; and

(b) Registered pursuant to and complying with NRS 88.570 to 88.605, inclusive, and 88.609.

6. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

7. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

8. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners, including a restricted limited partnership.

9. "Partner" means a limited or general partner.

10. "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

11. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

12. ~~["Record" means information that is inscribed on tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

~~13.~~ "Registered limited-liability limited partnership" means a limited partnership:

(a) Formed pursuant to an agreement governed by this chapter; and

(b) Registered pursuant to and complying with NRS 88.350 to 88.415, inclusive, 88.606, 88.6065 and 88.607.

~~14.~~ 13. "Registered agent" has the meaning ascribed to it in NRS 77.230.

~~15.~~ 14. "Registered office" means the office maintained at the street address of the registered agent.

~~16.~~ 15. "Restricted limited partnership" means a limited partnership organized and existing under this chapter that elects to include the optional provisions permitted by NRS 88.350.

~~17. "Sign" means to affix a signature to a record.~~

~~18. "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself or herself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.~~

~~19.~~ 16. "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

~~{20. "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process.}~~

Sec. 79. NRS 88.355 is hereby amended to read as follows:

88.355 1. A certificate of limited partnership is amended by filing a certificate of amendment thereto in the Office of the Secretary of State. The certificate must set forth:

- (a) The name of the limited partnership; and
- (b) The amendment.

2. Within 30 days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events must be filed:

- (a) The admission of a new general partner;
- (b) The withdrawal of a general partner; or
- (c) The continuation of the business under NRS 88.550 after an event of withdrawal of a general partner.

3. A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described, except the address of its office or the name or address of its registered agent, have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.

4. A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

5. No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection 2 if the amendment is filed within the 30-day period specified in subsection 2.

6. A certificate of amendment filed pursuant to this section is effective ~~upon~~ **at the time of the** filing of the certificate with the Secretary of State or upon a later date **and time as** specified in the certificate, which **date** must not be more than 90 days after the **date on which the** certificate is filed. ***If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

7. A restated certificate of limited partnership may be signed and filed in the same manner as a certificate of amendment. If the certificate alters or amends the certificate of limited partnership in any manner, it must be accompanied by a form prescribed by the Secretary of State setting forth which provisions of the certificate of limited partnership on file with the Secretary of State are being altered or amended.

Sec. 80. NRS 88.360 is hereby amended to read as follows:

88.360 **1.** A certificate of limited partnership must be cancelled upon the dissolution and the commencement of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation must be filed in the Office of the Secretary of State and set forth:

- ~~11-1~~ (a) The name of the limited partnership;
- ~~12-1~~ (b) The reason for filing the certificate of cancellation;
- ~~13-1~~ (c) The effective date **and time** of the cancellation if other than the ~~date~~ **time** of the filing of the certificate ~~1-1~~ **with the Secretary of State**, which **date** must not be more than 90 days after the **date on which the** certificate is filed; and
- ~~14-1~~ (d) Any other information the general partners filing the certificate determine.

2. If a certificate filed pursuant to ~~this section~~ subsection 1 specifies a later effective date but does not specify an effective time, the cancellation of the certificate of limited partnership is effective at 12:01 a.m. in the Pacific time zone on the specified later date.

Sec. 81. NRS 88.380 is hereby amended to read as follows:

88.380 1. A signed copy of the certificate of limited partnership and of any certificates of amendment or cancellation or of any judicial decree of amendment or cancellation must be delivered to the Secretary of State. A person who signs a certificate as an agent or fiduciary need not exhibit evidence of his or her authority as a prerequisite to filing. Unless the Secretary of State finds that any certificate does not conform to law, upon receipt of all filing fees required by law the Secretary of State shall file the certificate.

2. ~~Upon~~ **At the time of** the filing of a certificate of amendment or judicial decree of amendment with the Secretary of State, ~~or~~ upon a later date **and time as** specified in the certificate ~~1-1~~ **or judicial decree**, which **date** must not be more than 90 days after the **date on which the** certificate **or judicial decree** is filed ~~1-1~~ **or, if a certificate or judicial decree filed pursuant to this section specifies a later effective date but does not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date, whichever is applicable,** the certificate of limited partnership is amended as set forth therein. ~~1-1 and upon the effective date~~

3. **At the time of the filing** of a certificate of cancellation or a judicial decree thereof ~~1-1~~ **with the Secretary of State, upon a later date and time as specified in the certificate or judicial decree, which date must not be more than 90 days after the date on which the certificate or judicial decree is filed or, if a certificate or judicial decree filed pursuant to this section specifies a later effective date but does not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date, whichever is applicable,** the certificate of limited partnership is cancelled.

Sec. 82. NRS 88.535 is hereby amended to read as follows:

88.535 1. On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest.

2. This section:

(a) Provides the exclusive remedy by which a judgment creditor of a partner or an assignee of a partner may satisfy a judgment out of the partnership interest of the judgment debtor. *No other remedy, including, without limitation, foreclosure on the partner's partnership interest or a court order for directions, accounts and inquiries that the debtor or partner might have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's interest in the limited partnership, and no other remedy may be ordered by a court.*

(b) Does not deprive any partner of the benefit of any exemption laws applicable to the partnership interest of the partner.

(c) *Does not supersede any written agreement between a partner and creditor if the written agreement does not conflict with the partnership's certificate of limited partnership or partnership agreement.*

Sec. 83. NRS 88.595 is hereby amended to read as follows:

88.595 **1.** A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a general partner. The certificate must set forth:

~~1-1~~ (a) The name of the foreign limited partnership;
~~1-2~~ (b) The reason for filing the certificate of cancellation;
~~1-3~~ (c) The effective date *and time* of the cancellation if other than the ~~date~~ *time* of the filing of the certificate ~~1-1~~ *with the Secretary of State*, which *date* must not be more than 90 days after the *date on which the* certificate is filed; and

~~1-4~~ (d) Any other information deemed necessary by the general partners of the partnership.

↪ A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this State.

2. *If a certificate filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the cancellation of the registration is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

Sec. 84. NRS 88A.030 is hereby amended to read as follows:

88A.030 "Business trust" means an unincorporated association which:

1. Is created by a ~~trust~~ *governing* instrument under which property is held, *administered*, managed, controlled, invested, reinvested or operated, or any combination of these, or business or professional activities for profit are carried on, by a trustee *or trustees* for the benefit of the persons entitled to a beneficial interest in the trust property ~~1-1~~ *or as otherwise provided in the governing instrument*; and

2. Files a certificate of trust pursuant to NRS 88A.210.

↪ The term includes, without limitation, a trust of the type known at common law as a business trust or Massachusetts trust, a trust qualifying as a real estate investment trust pursuant to 26 U.S.C. §§ 856 et seq., as amended, or any successor provision, or a trust qualifying as a real estate mortgage

investment conduit pursuant to 26 U.S.C. § 860D, as amended, or any successor provision.

Sec. 85. NRS 88A.050 is hereby amended to read as follows:

88A.050 "Governing instrument" means ~~the~~ **any one or more instruments, whether referred to as a** trust instrument **, declaration of trust or otherwise,** that ~~creates~~ **create** a trust and ~~provides~~ **provide** for the governance of its affairs and the conduct of its business.

Sec. 86. NRS 88A.210 is hereby amended to read as follows:

88A.210 1. One or more persons may create a business trust by adopting a governing instrument and signing and filing with the Secretary of State a certificate of trust. The certificate of trust must set forth:

- (a) The name of the business trust;
- (b) The name and address, either residence or business, of at least one trustee;
- (c) The information required pursuant to NRS 77.310;
- (d) The name and address, either residence or business, of each person signing the certificate of trust; and
- (e) Any other information the trustees determine to include.

2. Upon the filing of the certificate of trust with the Secretary of State and the payment to the Secretary of State of the required filing fee, the Secretary of State shall issue to the business trust a certificate that the required records with the required content have been filed. From the date of that filing, the business trust is legally formed pursuant to this chapter.

3. *Except as otherwise provided in the governing instrument, a business trust organized on or after October 1, 2011, is deemed to be an entity separate from its trustee or trustees and beneficial owner. Except as otherwise provided in the governing instrument, a business trust may hold or take title to property in its own name, or in the name of a trustee in the trustee's capacity as trustee, whether in an active, passive or custodial capacity. The provisions of this subsection do not change the status of any business trust existing as an entity or aggregation before October 1, 2011.*

4. *Neither the use of the designation "business trust" nor a statement in a governing instrument or certificate of trust to the effect that the trust formed thereby is or will qualify as a business trust under this chapter creates a presumption or inference that the trust so formed is a business trust for the purposes of Title 11 of the United States Code.*

Sec. 87. NRS 88A.250 is hereby amended to read as follows:

88A.250 ~~Upon the filing of a~~

1. A certificate of amendment or restatement **filed** with the Secretary of State ~~or upon the future effective~~ **pursuant to this chapter is effective:**

(a) **At the time of the filing of the certificate or restatement with the Secretary of State;**

(b) **Upon a later date ~~of such a~~ and time as specified in the certificate ~~as provided for therein,~~ , which date must not be more than 90 days after**

the date on which the certificate or restatement is filed with the Secretary of State; or

(c) If the certificate or restatement specifies a later effective date but does not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date.

➔ *At the effective time ~~of~~ of the certificate or restatement,* the certificate of trust is amended or restated as set forth ~~in the certificate or restatement.~~ ~~Upon the filing of a~~ *in the certificate or restatement.*

2. A certificate of cancellation ~~of~~ or the articles of merger in which the business trust is not a surviving entity ~~of~~ *are effective:*

(a) At the time of the filing of the certificate or ~~the~~ articles with the Secretary of State ~~or upon the future effective~~ ;

(b) Upon a later date ~~of the~~ and time as specified in the certificate or articles, *which date must not be more than 90 days after the date on which the certificate or articles are filed with the Secretary of State; or*

(c) If the certificate or articles specify a later effective date but do not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date.

➔ *At the effective time of the certificate or articles,* the certificate of trust is cancelled.

Sec. 88. NRS 88A.260 is hereby amended to read as follows:

88A.260 1. Except as otherwise provided in the certificate of trust, the governing instrument or this chapter, a business trust has perpetual existence and may not be terminated or revoked by a beneficial owner or other person except in accordance with the certificate of trust or governing instrument.

2. Except as otherwise provided in the certificate of trust or the governing instrument, the death, incapacity, dissolution, termination or bankruptcy of a beneficial owner does not result in the termination or dissolution of a business trust.

3. An artificial person formed or organized pursuant to the laws of a foreign nation or other foreign jurisdiction or the laws of another state shall not be deemed to be doing business in this State solely because it is a beneficial owner or trustee of a business trust.

4. The provisions of NRS 662.245 do not apply to the appointment of a trustee of a business trust formed pursuant to this chapter.

5. *A business trust or any series thereof does not terminate because the same person is the sole trustee and sole beneficial owner.*

Sec. 89. NRS 88A.360 is hereby amended to read as follows:

88A.360 ~~{To the extent that, at law or in equity,}~~

1. *Except as otherwise provided in the governing instrument but subject to the provisions of subsection 3,* a trustee ~~has duties, fiduciary or otherwise, and liabilities relating thereto to a~~ *shall act in good faith and in a manner the trustee reasonably believes to be in the best interest of the business trust.* ~~for beneficial owner.~~

~~1-1~~ 2. *If there is at least one trustee of a series trust that, in discharging its duties, is obligated to consider the interests of the trust and all series thereof, the governing instrument may provide that one or more other trustees, in discharging their duties, may consider only the interest of the trust or one or more series thereof.*

3. *The governing instrument may expand, restrict or eliminate the duties of the trustee of a business trust, except that a governing instrument may not eliminate the implied contractual covenant of good faith and fair dealing.*

4. If the trustee acts pursuant to a governing instrument, the trustee is not liable to the business trust or to a beneficial owner for the trustee's reliance in good faith on the provisions of the governing instrument . ~~1-1~~ and

~~2-1~~ The duties and liabilities of the trustee may be expanded or restricted by provisions in the governing instrument.

Sec. 90. NRS 88A.420 is hereby amended to read as follows:

88A.420 1. A certificate of trust must be cancelled upon the completion or winding up of the business trust and its termination. A certificate of cancellation must be signed by a trustee, filed with the Secretary of State, and set forth:

~~1-1~~ (a) The name of the business trust;

~~1-2~~ (b) The effective date *and time* of the cancellation if other than the ~~date~~ *time* of the filing of the certificate, which *date* must not be more than 90 days after the *date on which the* certificate is filed; and

~~1-3~~ (c) Any other information the trustee determines to include.

2. *If a certificate filed pursuant to ~~this section~~ subsection 1 specifies a later effective date but does not specify an effective time, the cancellation of the certificate of trust is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

Sec. 91. NRS 88A.740 is hereby amended to read as follows:

88A.740 1. A foreign business trust may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a trustee. The certificate must set forth:

~~1-1~~ (a) The name of the foreign business trust;

~~1-2~~ (b) The effective date *and time* of the cancellation if other than the ~~date~~ *time* of the filing of the certificate, which *date* must not be more than 90 days after the *date on which the* certificate is filed; and

~~1-3~~ (c) Any other information deemed necessary by the trustee.

↪ A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign business trust with respect to causes of action arising out of the transaction of business in this State.

2. *If a certificate filed pursuant to ~~this section~~ subsection 1 specifies a later effective date but does not specify an effective time, the cancellation of the registration is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

Sec. 92. NRS 89.020 is hereby amended to read as follows:

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

1. "Articles" means either the articles of incorporation of a professional corporation or the articles of organization of a professional limited-liability company.

2. "Employee" means a person licensed or otherwise legally authorized to render professional service within this State who renders such service through a professional entity or a professional association, but does not include clerks, bookkeepers, technicians or other persons who are not usually considered by custom and practice of the profession to be rendering professional services to the public.

3. "Licensed" means legally authorized by the appropriate regulating board of this State to engage in a regulated profession in this State.

4. "Owner" means the owner of stock in a professional corporation or the owner of a member's interest, as defined in NRS 86.091, in a professional limited-liability company.

5. "Owner's interest" means the stock of a professional corporation or a member's interest, as defined in NRS 86.091, of a professional limited-liability company.

6. "Professional association" means a common-law association of two or more persons licensed or otherwise legally authorized to render professional service within this State when created by written articles of association which contain in substance the following provisions characteristic of corporate entities:

(a) The death, insanity, bankruptcy, retirement, resignation, expulsion or withdrawal of any member of the association does not cause its dissolution.

(b) The authority to manage the affairs of the association is vested in a board of directors or an executive board or committee, elected by the members of the association.

(c) The members of the association are employees of the association.

(d) Members' ownership is evidenced by certificates.

7. "Professional corporation" means a corporation organized under this chapter to render a professional service.

8. "Professional entity" means either a professional corporation or a professional limited-liability company.

9. "Professional limited-liability company" means a limited-liability company organized pursuant to this chapter to render professional service.

10. "Professional service" means any type of personal service which may legally be performed only pursuant to a license, certificate of registration or other legal authorization.

11. ~~"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

~~12.~~ "Regulating board" means the body which regulates and authorizes the admission to the profession which a professional entity or a professional association is authorized to perform.

~~{13. "Sign" means to affix a signature to a record.~~

~~14. "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself or herself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.~~

Sec. 93. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

Any notice or other communication sent pursuant to any provision of this chapter may be delivered by electronic transmission pursuant to section 11 of this act.

Sec. 94. NRS 92A.005 is hereby amended to read as follows:

92A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 92A.007 to ~~{92A.097,}~~ **92A.092**, inclusive, have the meanings ascribed to them in those sections.

Sec. 95. NRS 92A.105 is hereby amended to read as follows:

92A.105 1. Except as limited by NRS 78.411 to 78.444, inclusive, ***and section 14 of this act*** one domestic general partnership or one domestic entity, except a domestic nonprofit corporation, may convert into a domestic entity of a different type or ***into*** a foreign entity if ~~{the}~~ ***a*** plan of conversion is approved pursuant to the provisions of this chapter.

2. The plan of conversion must be in writing and set forth the:

(a) Name of the constituent entity and the proposed name for the resulting entity;

(b) Jurisdiction of the law that governs the constituent entity;

(c) Jurisdiction of the law that will govern the resulting entity;

(d) Terms and conditions of the conversion;

(e) Manner and basis, if any, of converting the owner's interest ***of the constituent entity*** or the interest of a partner in a general partnership ~~{of}~~ ***that is*** the constituent entity into owner's interests, rights of purchase and other securities in the resulting entity or cancelling such owner's interests in whole or in part; and

(f) Full text of the charter documents of the resulting entity.

3. The plan of conversion may set forth other provisions relating to the conversion.

Sec. 96. NRS 92A.130 is hereby amended to read as follows:

92A.130 1. Action by the stockholders of a surviving domestic corporation on a plan of merger is not required if:

(a) The articles of incorporation of the surviving domestic corporation will not differ from its articles before the merger;

(b) Each stockholder of the surviving domestic corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations and relative rights immediately after the merger;

(c) The number of voting shares ~~outstanding immediately after the merger, plus the number of voting shares~~ issued **and issuable** as a result of the merger ~~either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger,~~ will not exceed ~~by more than~~ 20 percent **of** the total number of voting shares of the surviving domestic corporation outstanding immediately before the merger; and

(d) The number of participating shares ~~outstanding immediately after the merger, plus the number of participating shares~~ **issued and** issuable as a result of the merger ~~either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger,~~ will not exceed ~~by more than~~ 20 percent **of** the total number of participating shares outstanding immediately before the merger.

2. As used in this section:

(a) "Participating shares" means shares that entitle their holders to participate without limitation in distributions.

(b) "Voting shares" means shares that entitle their holders to vote unconditionally in elections of directors.

Sec. 97. NRS 92A.195 is hereby amended to read as follows:

92A.195 1. One foreign entity or foreign general partnership may convert into one domestic entity if:

(a) The conversion is permitted by the law of the jurisdiction governing the foreign entity or foreign general partnership and the foreign entity or foreign general partnership complies with that law in effecting the conversion;

(b) The foreign entity or foreign general partnership complies with the applicable provisions of NRS 92A.205 ~~and, if it is the resulting entity in the conversion, with NRS 92A.210 to 92A.240, inclusive,~~ **, 92A.207, 92A.210, 92A.230 and 92A.240;** and

(c) The **resulting** domestic entity complies with the applicable provisions of NRS ~~92A.105,~~ **92A.205 and 92A.220.**

2. One domestic entity or domestic general partnership may convert into one foreign entity if:

(a) The conversion is permitted by the law of the jurisdiction governing the resulting foreign entity and the resulting foreign entity complies with that law in effecting the conversion; and

(b) The domestic entity complies with the applicable provisions of NRS 92A.105, 92A.120, 92A.135, 92A.140 , ~~and~~ 92A.165 , ~~and, if it is the resulting entity in the conversion, with NRS~~ 92A.205 ~~to~~ , 92A.207, 92A.210, 92A.230 and 92A.240 . ~~inclusive.~~

~~2.~~ **3.** When ~~the~~ **a** conversion **pursuant to subsection 2** takes effect, the resulting foreign entity ~~in a conversion~~ shall be deemed to have appointed the Secretary of State as its agent for service of process in a proceeding to enforce any obligation. Service of process must be made personally by delivering to and leaving with the Secretary of State duplicate copies of the

process and the payment of a fee of \$100 for accepting and transmitting the process. The Secretary of State shall send one of the copies of the process by registered or certified mail to the resulting entity at its specified address, unless the resulting entity has designated in writing to the Secretary of State a different address for that purpose, in which case it must be mailed to the last address so designated.

Sec. 98. NRS 92A.240 is hereby amended to read as follows:

92A.240 1. A merger, conversion or exchange takes effect ~~upon~~ :

(a) *At the time of the filing of the articles of merger, conversion or exchange ~~for upon~~ with the Secretary of State;*

(b) *Upon a later date and time as specified in the articles, which date must not be more than 90 days after the date on which the articles are filed ~~+~~ ; or*

(c) *If the articles specify a later effective date but do not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date.*

2. If the filed articles of merger, conversion or exchange specify such a later effective date ~~+~~ *or effective date and time*, the constituent entity or entities may file articles of termination before the effective ~~date,~~ *time*, setting forth:

(a) The name of each constituent entity and, for a conversion, the resulting entity; and

(b) That the merger, conversion or exchange has been terminated pursuant to the plan of merger, conversion or exchange.

3. The articles of termination must be signed in the manner provided in NRS 92A.230.

Sec. 99. ~~NRS 92A.270 is hereby amended to read as follows:~~

~~92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:~~

~~(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and~~

~~(b) Filing with the Secretary of State:~~

~~(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;~~

~~(2) The appropriate charter document for the type of domestic entity;~~

~~(3) The information required pursuant to NRS 77.310;~~

~~(4) A certified copy of the charter document, or the equivalent, of the undomesticated organization; and~~

~~(5) A certificate of good standing, or the equivalent, from the jurisdiction where the undomesticated organization was chartered immediately before filing the articles of domestication pursuant to subparagraph (1).~~

~~2. The articles of domestication must set forth the:~~

~~(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created and, if~~

~~applicable, any date when and jurisdiction where the undomesticated organization was chartered after its formation;~~

~~(b) Name of the undomesticated organization immediately before filing the articles of domestication;~~

~~(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and~~

~~(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law, immediately before filing the articles of domestication.~~

~~3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.~~

~~4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.~~

~~5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.~~

~~6. Before filing articles of domestication, the domestication must be approved in the manner required by:~~

~~(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and~~

~~(b) Applicable foreign law.~~

~~7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity~~

~~resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.~~

~~8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.~~

~~9. [The owner liability of an undomesticated organization that is domesticated in this State:~~

~~(a) Is not discharged, pursuant to the laws of the previous jurisdiction of the organization, to the extent the owner liability arose before the effective date of the articles of domestication;~~

~~(b) Does not attach, pursuant to the laws of the previous jurisdiction of the organization, to any debt, obligation or liability of the organization that arises after the effective date of the articles of domestication;~~

~~(c) Is governed by the law of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a);~~

~~(d) Is subject to the right of contribution from any other shareholder, member, trustee, partner, limited partner or other owner of the undomesticated organization pursuant to the laws of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a); and~~

~~(e) Applies only to the debts, obligations or liabilities of the organization that arise after the effective date of the articles of domestication if the owner becomes subject to owner liability or some or all of the debts, obligations or liabilities of the undomesticated entity as a result of its domestication in this State.~~

~~10.] As used in this section [:~~

~~(a) "Owner liability" means the liability of a shareholder, member, trustee, partner, limited partner or other owner of an organization for debts of the~~

organization, including the responsibility to make additional capital contributions to cover such debts.

~~(b) "Undomesticated"; "undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, limited liability company, general partnership, registered limited liability partnership, limited partnership or registered limited liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than [this State.] the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States."/~~ **(Deleted by amendment.)**

Sec. 100. NRS 92A.380 is hereby amended to read as follows:

92A.380 1. Except as otherwise provided in NRS 92A.370 and 92A.390 ~~and subject to the limitation in paragraph (f)~~, any stockholder is entitled to dissent from, and obtain payment of the fair value of the stockholder's shares in the event of any of the following corporate actions:

(a) Consummation of a plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the stockholders is required for the merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the stockholder is entitled to vote on the plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) Consummation of a plan of conversion to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be converted.

(c) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if the stockholder's shares are to be acquired in the plan of exchange.

(d) Any corporate action taken pursuant to a vote of the stockholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting stockholders are entitled to dissent and obtain payment for their shares.

(e) Accordance of full voting rights to control shares, as defined in NRS 78.3784, only to the extent provided for pursuant to NRS 78.3793.

(f) Any corporate action not described in this subsection that will result in the stockholder receiving money or scrip instead of ~~fractional shares~~ **a fraction of a share** except where the stockholder would not be entitled to receive such payment pursuant to NRS 78.205, 78.2055 or 78.207. **A dissent pursuant to this paragraph applies only to the fraction of a share, and the**

stockholder is entitled only to obtain payment of the fair value of the fraction of a share.

2. A stockholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate action creating the entitlement unless the action is unlawful or fraudulent with respect to the stockholder or the domestic corporation.

3. ~~From~~ ***Subject to the limitations in this subsection, from*** and after the effective date of any corporate action described in subsection 1, no stockholder who has exercised the right to dissent pursuant to NRS 92A.300 to 92A.500, inclusive, is entitled to vote his or her shares for any purpose or to receive payment of dividends or any other distributions on shares. This subsection does not apply to dividends or other distributions payable to stockholders on a date before the effective date of any corporate action from which the stockholder has dissented. ***If a stockholder exercises the right to dissent with respect to a corporate action described in paragraph (f) of subsection 1, the restrictions of this subsection apply only to the shares to be converted into a fraction of a share and the dividends and distributions to those shares.***

Sec. 101. NRS 92A.490 is hereby amended to read as follows:

92A.490 1. If a demand for payment remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded by each dissenter pursuant to NRS 92A.480 plus interest.

2. A subject corporation shall commence the proceeding in the district court of the county where its principal office is located in this State. If the principal office of the subject corporation is not located in ~~the~~ ***this State, the right to dissent arose from a merger, conversion or exchange and the principal office of the surviving entity, resulting entity or the entity whose shares were acquired, whichever is applicable, is located in this State,*** it shall commence the proceeding in the county where the principal office of the ~~domestic corporation merged with~~ ***surviving entity, resulting entity or the entity*** whose shares were acquired ~~by the foreign entity was~~ ***is*** located. ~~## In all other cases, if the principal office of the subject corporation and the domestic corporation merged with or whose shares were acquired,~~ is not located in this State, the subject corporation shall commence the proceeding in the district court in the county in which the corporation's registered office is located.

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of the dissenter's shares, plus interest, exceeds the amount paid by the subject corporation; or

(b) For the fair value, plus accrued interest, of the dissenter's after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

Sec. 102. NRS 77.220, 77.260, 78.595, 78A.001, 78A.004, 78A.006, 78A.008, 80.001, 80.002, 80.0025, 80.003, 80.004, 81.001, 81.0012, 81.0014, 81.0015, 81.0025, 82.038, 82.042, 82.043, 82.044, 84.002, 84.003, 84.0035, 84.004, 86.116, 86.126, 86.127, 86.128, 87.004, 87.005, 87.006, 87.008, 87A.090, 87A.110, 87A.115, 87A.125, 88A.055, 88A.080, 88A.090, 88A.100, 90.277, 91.145, 92A.085, 92A.093, 92A.097 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

77.220 "Record" defined.

77.260 "Sign" defined.

78.595 Trustees of dissolved corporation: Authority to sue and be sued; joint and several responsibility.

78A.001 Definitions.

78A.004 "Record" defined.

78A.006 "Sign" defined.

78A.008 "Signature" defined.

80.001 Definitions.

80.002 "Record" defined.

80.0025 "Sign" defined.

80.003 "Signature" defined.

80.004 "Street address" defined.

81.001 Definitions.

81.0012 "Record" defined.

81.0014 "Sign" defined.

81.0015 "Signature" defined.

81.0025 "Street address" defined.

82.038 "Record" defined.

82.042 "Sign" defined.

82.043 "Signature" defined.

82.044 "Street address" defined.

84.002 Definitions.

84.003 "Record" defined.

84.0035 "Sign" defined.
 84.004 "Signature" defined.
 86.116 "Record" defined.
 86.126 "Sign" defined.
 86.127 "Signature" defined.
 86.128 "Street address" defined.
 87.004 "Record" defined.
 87.005 "Sign" defined.
 87.006 "Signature" defined.
 87.008 "Street address" defined.
 87A.090 "Record" defined.
 87A.110 "Sign" defined.
 87A.115 "Signature" defined.
 87A.125 "Street address" defined.
 88A.055 "Record" defined.
 88A.080 "Sign" defined.
 88A.090 "Signature" defined.
 88A.100 "Street address" defined.
 90.277 "Record" defined.
 91.145 "Record" defined.
 92A.085 "Record" defined.
 92A.093 "Sign" defined.
 92A.097 "Signature" defined.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Amendment No. 226 to Senate Bill No. 405 deletes Section 56 of the bill that exempted from certain registration requirements a person who solicits business in relation to a mortgage loan secured by commercial real property. It deletes Section 99 concerning domestication.

It revises Sections 51 and 52 pertaining to joint and several liability for trustees of a dissolved corporation and the charging order statutes.

It makes various changes throughout the measure in order to provide additional clarity on the intent of the measure.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 414.

Bill read second time.

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

Amendment No. 299.

"SUMMARY—Revises provisions relating to ~~banks~~ financial institutions. (BDR 55-1107)"

"AN ACT relating to ~~banks; prohibiting a bank from demanding the repayment of the principal of a commercial mortgage loan unless a person~~

~~fails to pay the loan as agreed; } financial institutions; prohibiting a {bank} banking or other financial institution~~ from unreasonably delaying a response to an offer for a short sale on real property secured by a residential mortgage loan; prohibiting a **banking or other** financial institution from obtaining a deficiency judgment in certain circumstances; **providing a penalty;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. For an obligation secured by a mortgage or deed of trust on or after October 1, 2009, a court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the creditor or beneficiary is a financial institution; (2) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (3) the debtor or grantor used the loan to purchase the property; (4) the debtor or grantor occupied the property continuously after obtaining the loan; and (5) the debtor or grantor did not refinance the loan. (NRS 40.455) **Section 4** of this bill prohibits a court from awarding a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the creditor or beneficiary is a **banking or other** financial institution; (2) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (3) the debtor or grantor used the loan to purchase the property; (4) the debtor or grantor occupied the property continuously after obtaining the loan; (5) the debtor or grantor and the **banking or other** financial institution entered into an agreement, commonly known as a short sale, to sell the real property to a third party for less than the indebtedness; and (6) the agreement does not state the amount of money still owed by the debtor or grantor or does not authorize the **banking or other** financial institution to recover that money. ~~It~~ **and contains a statement that the banking or other financial institution has waived its right to recover the amount owed.** **Section 3** of this bill prohibits a ~~bank~~ **banking or other financial institution** or its officers, managers or employees from unreasonably delaying its response to an offer for a short sale on real property secured by a residential mortgage loan.

~~{Section 2 of this bill prohibits a bank from demanding the repayment of all or part of the outstanding principal on a commercial mortgage loan unless the debtor fails to make payments on the loan as agreed.}~~ **Under existing law, a violation of section 3 constitutes a misdemeanor and, in addition to any criminal penalty, is punishable by an administrative fine of not more than \$10,000. (NRS 668.112, 668.115)**

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

Section 1. Chapter 668 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~1. A bank or an officer, manager or employee of a bank shall not demand the repayment of any additional amount of outstanding principal on a commercial mortgage loan if the person to whom the loan was made has not failed to make payments upon the commercial mortgage loan as agreed.~~

~~2. As used in this section, "commercial mortgage loan" has the meaning ascribed to it in NRS 645E.030.~~ **(Deleted by amendment.)**

Sec. 3. 1. A ~~bank~~ banking or other financial institution, or an officer, manager or employee of a ~~bank~~ banking or other financial institution, shall not unreasonably delay responding to an offer for a short sale on real property secured by a residential mortgage loan.

2. For the purposes of this section, a person is presumed to have unreasonably delayed responding to an offer for a short sale on real property secured by a residential mortgage loan when the person fails to respond to an offer for a short sale with an acceptance or rejection of the offer within 90 days after receipt of the offer ~~+~~, unless the parties have agreed in writing to a delay of more than 90 days after receipt of the offer.

3. As used in this section:

(a) "Banking or other financial institution" means any bank, savings and loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.

(b) "Indebtedness" has the meaning ascribed to it in NRS 40.451.

~~+(b) (c)~~ (c) "Residential mortgage loan" has the meaning ascribed to it in NRS 645B.0132.

~~+(c) (d)~~ (d) "Short sale" means an agreement between a ~~bank~~ banking or other financial institution and an owner of real property to sell the real property secured by a residential mortgage loan to a third party for an amount less than the indebtedness secured thereby.

Sec. 4. NRS 40.455 is hereby amended to read as follows:

40.455 1. Except as otherwise provided in subsection 3 ~~+~~ or 4, upon application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale or trustee's sale of the last parcel or other interest in the real property

securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.

3. If the judgment creditor or the beneficiary of the deed of trust is a financial institution ~~it~~ as defined in NRS 363A.050, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust; and

(d) The debtor or grantor did not refinance the mortgage or deed of trust after securing it.

4. *If the judgment creditor or the beneficiary of the deed of trust is a banking or other financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if:*

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust;

(d) The debtor or grantor and the banking or other financial institution entered into an agreement to sell the real property secured by the mortgage or deed of trust to a third party for an amount less than the indebtedness secured thereby; and

(e) The agreement entered into pursuant to paragraph (d) ~~does~~ :

(1) Does not state the amount of money still owed to the banking or other financial institution by the debtor or grantor or does not authorize the banking or other financial institution to recover that amount from the debtor or grantor ~~it~~ ; and

(2) Contains a conspicuous statement that has been acknowledged by the signature of the debtor or grantor which provides that the banking or other financial institution has waived its right to recover the amount owed by the debtor or grantor and which sets forth the amount of recovery that is being waived.

5. As used in this section, "banking or other financial institution" ~~has the meaning ascribed to it in NRS 363A.050~~ means any bank, savings and

loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer

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

Amendment No. 299 to Senate Bill No. 414 deletes the provision relating to a demand by a bank for additional principal payments on commercial mortgage loans.

It includes the term "other financial institutions" in the remaining provisions dealing with banks.

Finally, the amendment limits deficiency judgments after certain "short sales" and requires banks and other financial institutions to include a conspicuous statement regarding any deficiency owed after a "short sale."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 420.

Bill read second time.

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

Amendment No. 238.

"SUMMARY—Makes various changes relating to the operation of certain facilities for long-term care. (BDR 40-158)"

"AN ACT relating to facilities for long-term care; ~~requiring the State Board of Health to establish a uniform procedure for the comprehensive assessment of patients or residents of certain facilities that provide long term care;~~ requiring certain facilities that provide long-term care to establish certain policies concerning the readmission to the facility after a patient is transferred out of the facility; ~~making various changes relating to the staffing levels of certain facilities that provide long term care;~~ requiring certain facilities that provide long-term care to post certain information about persons or entities that have ownership or control over the facility; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 2 of this bill requires the State Board of Health to establish a uniform procedure to be used for conducting a comprehensive assessment to determine the level of care required by each patient or resident of a facility for intermediate care, facility for skilled nursing and residential facility for groups.]~~ **Section 3** of this bill requires a facility for intermediate care, facility for skilled nursing and residential facility for groups to adopt a written policy which establishes the length of time it will hold a bed for a patient or resident who must be temporarily transferred to another facility for medical reasons and which provides that such a patient or resident will be allowed to return to the first available bed if he or she does not return within the established time, **if the facility is suitable for properly caring for the patient.** **Section 3**

further requires the facility to inform a patient or resident of these policies regarding readmission after a temporary transfer for medical reasons when the patient or resident is admitted to the facility.

~~† Section 4 of this bill requires each facility for intermediate care, facility for skilled nursing and residential facility for groups to annually report its staffing levels to the Health Division of the Department of Health and Human Services and further requires the Health Division to establish staffing levels which it deems adequate to provide appropriate care for patients.~~

Existing law requires certain information to be included on each license issued by the Health Division of the Department of Health and Human Services and requires the operator of a residential facility for groups to post his or her license in a conspicuous location in the facility. (NRS 449.085, 449.095) ~~[Section 7 of this bill requires the license issued to a facility for intermediate care, facility for skilled nursing or residential facility for groups to also contain the name and contact information regarding certain persons who have a certain level of ownership or control over the facility.]~~ **Section 9 of this bill ~~[further]~~ requires ~~[these facilities]~~ a facility for intermediate care and a facility for skilled nursing to post the license, ~~[and]~~ information concerning the organizational structure of the management of the facility, and contact information for the administrator and the representative of the owner or operator of the facility** in a conspicuous location in the facility, **and requires a residential facility for groups to post the same contact information with respect to the facility.**

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ~~[The Board shall, by regulation, establish a uniform procedure to be used for conducting a comprehensive assessment of each patient or resident of a facility for intermediate care, facility for skilled nursing or residential facility for groups to determine the level of care required for each patient or resident that must include, without limitation, an objective assessment of the physical and mental condition of the patient or resident.]~~
(Deleted by amendment.)

Sec. 3. 1. *A facility for intermediate care, facility for skilled nursing and residential facility for groups shall adopt a written policy that establishes:*

(a) The number of days the facility will hold the bed of a patient or resident for his or her return if the patient or resident is transferred temporarily to a hospital or other facility for medical reasons; and

(b) That a patient or resident who is so transferred for a period that exceeds the period of the hold established pursuant to paragraph (a) will be allowed to resume his or her residency as soon as a bed becomes available, if the facility is suitable for properly caring for the patient upon his or her return.

2. Upon admission of a patient or resident to a facility for intermediate care, facility for skilled nursing or residential facility for groups, the facility shall provide to the patient or resident and, if applicable, to the legal representative of the patient or resident, a copy of the policy established pursuant to subsection 1.

~~Sec. 4. 1. On or before January 1 of each year, each facility for intermediate care, facility for skilled nursing and residential facility for groups shall submit to the Health Division an annual report of its staffing levels that it has maintained at the facility which includes, without limitation, the ratio of staff members who provide direct care to patients or residents.~~

~~2. The Health Division shall, by regulation, establish minimum staffing levels which it deems adequate to provide appropriate care to patients and residents of facilities for intermediate care, facilities for skilled nursing and residential facilities for groups.~~

~~3. The Health Division shall cause to be placed on the Internet website maintained by the Health Division the reports submitted pursuant to subsection 1 and the minimum staffing levels established pursuant to subsection 2.~~ **(Deleted by amendment.)**

Sec. 5. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, ~~and sections 2, 3 and 4 of this act~~ **section 3 and 4 of this act** do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

Sec. 6. NRS 449.080 is hereby amended to read as follows:

449.080 1. If, after investigation, the Health Division finds that the:

(a) Applicant is in full compliance with the provisions of NRS 449.001 to 449.240, inclusive ~~1, 2, 3 and 4 of this act~~ **section 3 and 4 of this act**;

(b) Applicant is in substantial compliance with the standards and regulations adopted by the Board;

(c) Applicant, if he or she has undertaken a project for which approval is required pursuant to NRS 439A.100, has obtained the approval of the Director of the Department of Health and Human Services; and

(d) Facility conforms to the applicable zoning regulations,
 ➡ the Health Division shall issue the license to the applicant.

2. A license applies only to the person to whom it is issued, is valid only for the premises described in the license and is not transferable.

Sec. 7. ~~NRS 449.085 is hereby amended to read as follows:~~

~~449.085 1. Each license issued by the Health Division shall be in the form prescribed by the Division and shall contain:~~

~~{1.} (a) The name of the person or persons authorized to operate such licensed facility;~~

~~{2.} (b) The location of such licensed facility; and~~

~~{3.} (c) The number of beds authorized in such licensed facility, the nature of services offered and the service delivery capacity.~~

~~2. In addition to the information required pursuant to subsection 1, the license issued by the Health Division to the licensee of a facility for intermediate care, facility for skilled nursing or residential facility for groups shall contain the name, address and telephone number of:~~

~~(a) Each officer, director, member, partner, trustee, managing employee or member of any governing body of the facility; and~~

~~(b) Any other person or entity who:~~

~~(1) Exercises operational, financial or managerial control over the facility or any part thereof;~~

~~(2) Leases or subleases property to the facility or who holds at least a 5 percent financial interest in the property; or~~

~~(3) Provides services relating to the management, administration, accounting or finances of the facility.~~ **(Deleted by amendment.)**

Sec. 8. NRS 449.091 is hereby amended to read as follows:

449.091 1. The Health Division may cancel the license of a medical facility or facility for the dependent and issue a provisional license, effective for a period determined by the Health Division, to such a facility if it:

(a) Is in operation at the time of the adoption of standards and regulations pursuant to the provisions of NRS 449.001 to 449.240, inclusive, ~~and sections 2, 3 and 4 of this act~~ **section 3 of this act** and the Health Division determines that the facility requires a reasonable time under the particular circumstances within which to comply with the standards and regulations; or

(b) Has failed to comply with the standards or regulations and the Health Division determines that the facility is in the process of making the necessary changes or has agreed to make the changes within a reasonable time.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Health Division from refusing to renew or from revoking or suspending any license where the Health Division deems such action necessary for the health and safety of the occupants of any facility.

Sec. 9. NRS 449.095 is hereby amended to read as follows:

449.095 1. A person who operates a residential facility for groups shall:

~~{1.} (a) Post his or her license to operate the residential facility for groups; and~~

~~{2.} (b) Post the rates for services provided by the residential facility for groups.~~ **{1.} and**

(c) Post contact information for the administrator and the designated representative of the owner or operator of the facility,

↪ in a conspicuous place in the residential facility for groups.

2. A person who operates a facility for intermediate care or facility for skilled nursing shall:

(a) Post his or her license to operate the facility; ~~in a conspicuous place in the facility; and~~

(b) Post the organizational structure of the management of the facility ~~in the facility; and~~

(c) Post contact information for the administrator and the designated representative of the owner or operator of the facility,

↪ in a conspicuous place in the facility for intermediate care or facility for skilled nursing.

Sec. 10. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, ~~and sections 2, 3 and 4 of this act~~ upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, ~~and sections 2, 3 and 4 of this act~~ or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The

Health Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

→ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 11. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, ~~and sections 2, 3 and 4 of this act~~ or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, *and ~~sections 2, 3 and 4~~ of this act* or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 12. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~1, and sections 2, 3 and 4~~ *section 3 and 4 of this act*:

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

Sec. 13. NRS 449.230 is hereby amended to read as follows:

449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive ~~1, and sections 2, 3 and 4~~ *section 3 and 4 of this act*.

2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.037:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.037,

↪ to ensure the safety of the residents of the facility in an emergency.

3. The State Health Officer or a designee of the State Health Officer shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Health Division shall enter and inspect any building or premises operated by a residential facility for

groups within 72 hours after the Health Division is notified that a residential facility for groups is operating without a license.

Sec. 14. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, ~~and sections 2, 3 and 4 of this act~~ as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 15. ~~The State Board of Health and the Health Division of the Department of Health and Human Services shall, on or before~~

~~December 31, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.~~ **(Deleted by amendment.)**

Sec. 16. This act becomes effective on July 1, 2011.

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. 238 revises the provisions to Senate Bill No. 420 by specifying that a resident may return to a facility after being temporarily transferred to another facility for medical reasons only if the facility is suitable for properly caring for the patient.

It requires a facility for intermediate care and a facility for skilled nursing to post the license, information concerning the structure of management, and contact information for the administrator and the representative of the owner or operator of the facility in a conspicuous location. In addition, residential facilities for groups are required to post the same contact information with respect to the facility.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 487.

Bill read second time.

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

Amendment No. 487.

"SUMMARY—Revises provisions relating to the award of a contract for a public work to a specialty contractor. (BDR 28-394)"

"AN ACT relating to public works; revising provisions relating to the award of a contract for a public work to a specialty contractor; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a specialty contractor, which is defined as a contractor whose operations consist of the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or craft, is allowed to take and execute a contract involving the use of two or more crafts or trades if the work performed in the crafts or trades, other than the crafts or trades in which the specialty contractor is licensed, is incidental and supplemental to the performance of the work in the craft for which the specialty contractor is licensed. (NRS 624.215, 624.220) With respect to public works, existing law authorizes the State or a local government to award a contract for a public work to a specialty contractor if: (1) the majority of the work performed under the contract consists of the specialty contracting for which the specialty contractor is licensed; and (2) the public work is not part of a larger public work. However, any work to be performed under such a contract that is outside the scope of the license of the specialty contractor is required to be performed by an appropriate subcontractor. (NRS 338.139, 338.148) **This bill limits the applicability of those provisions to public works for which the cost is less than \$250,000.** This bill **also** prescribes the circumstances

under which a public body may award a contract to a specialty contractor ~~that~~ **for a public work for which the cost is \$250,000 or more and which** involves the performance of work that is outside the scope of the specialty contractor's license. This bill also provides for the certification of specialty contractors by the State Contractors' Board with respect to such contracts.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Except as otherwise provided in this section, a public body or its authorized representative may award a contract for a public work for which the cost is \$250,000 or more pursuant to NRS 338.1375 to 338.13895, inclusive, to a specialty contractor if the public body or its authorized representative determines that:

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed pursuant to chapter 624 of NRS; and

(b) The public work to which the contract pertains is not part of a larger public work.

2. If a public work for which the cost is \$250,000 or more involves the performance of work outside the scope of the specialty contractor's license, the public body or its authorized representative may not award a contract for the public work to the specialty contractor unless the public body or its authorized representative determines that:

(a) The work that is outside the scope of the specialty contractor's license is incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform, as provided for in subsection 4 of NRS 624.220;

(b) The State Contractors' Board has issued a certification to the specialty contractor pursuant to subsection 3; or

(c) The specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS.

3. Upon application by a specialty contractor, the State Contractors' Board may issue to a qualified specialty contractor a certification which allows the specialty contractor to enter into contracts to be awarded pursuant to NRS 338.1375 to 338.13895, inclusive, for public works for which the cost is \$250,000 or more and which involve the performance of work which is outside the scope of the specialty contractor's license and which is more than incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform. A specialty contractor is qualified to receive a certification pursuant to this subsection if:

(a) The specialty contractor is licensed for his or her specialty pursuant to chapter 624 of NRS; and

(b) The specialty contractor has successfully completed at least one public work in the State of Nevada pursuant to NRS 338.1375 to 338.13895, inclusive, which involved the use of two or more crafts or trades unrelated to his or her specialty.

4. Except as otherwise provided in this section, if a public body or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.1375 to 338.13895, inclusive, for a public work for which the cost is \$250,000 or more, all work to be performed on the public work that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who:

(a) Is licensed to perform such work; and

(b) At the time of the performance of the work, is not on disqualified status with the State Public Works Board pursuant to NRS 338.1376.

5. If a specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS, nothing in this section shall be construed to prohibit the specialty contractor who is acting in the capacity of a prime contractor from performing work himself or herself on the public work that is outside the scope of the specialty contractor's license as otherwise allowed by subsection 3 of NRS 624.215.

6. The State Contractors' Board shall adopt regulations prescribing the procedure for the certification of specialty contractors provided in subsection 3.

Sec. 3. 1. Except as otherwise provided in this section, a local government or its authorized representative may award a contract for a public work for which the cost is \$250,000 or more pursuant to NRS 338.143 to 338.1475, inclusive, to a specialty contractor if the local government or its authorized representative determines that:

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed pursuant to chapter 624 of NRS; and

(b) The public work to which the contract pertains is not part of a larger public work.

2. If a public work for which the cost is \$250,000 or more involves the performance of work outside the scope of the specialty contractor's license, the local government or its authorized representative may not award a contract for the public work to the specialty contractor unless the local government or its authorized representative determines that:

(a) The work that is outside the scope of the specialty contractor's license is incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform, as provided for in subsection 4 of NRS 624.220;

(b) The State Contractors' Board has issued a certification to the specialty contractor pursuant to subsection 3; or

(c) The specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS.

3. Upon application by a specialty contractor, the State Contractors' Board may issue to a qualified specialty contractor a certification which allows the specialty contractor to enter into contracts to be awarded pursuant to NRS 338.143 to 338.1475, inclusive, for public works for which the cost is \$250,000 or more and which involve the performance of work which is outside the scope of the specialty contractor's license and which is more than incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform. A specialty contractor is qualified to receive a certification pursuant to this subsection if:

(a) The specialty contractor is licensed for his or her specialty pursuant to chapter 624 of NRS; and

(b) The specialty contractor has successfully completed at least one public work in the State of Nevada pursuant to NRS 338.143 to 338.1475, inclusive, which involved the use of two or more crafts or trades unrelated to his or her specialty.

4. Except as otherwise provided in this section, if a local government or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.143 to 338.1475, inclusive, for a public work for which the cost is \$250,000 or more, all work to be performed on the public work that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who is licensed to perform such work.

5. If a specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS, nothing in this section shall be construed to prohibit the specialty contractor who is acting in the capacity of a prime contractor from performing work himself or herself on the public work that is outside the scope of the specialty contractor's license as otherwise allowed by subsection 3 of NRS 624.215.

6. The State Contractors' Board shall adopt regulations prescribing the procedure for the certification of specialty contractors provided in subsection 3.

Sec. 4. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker

or workers employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, and section 2 of this act to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

9. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

10. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

11. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

12. "Offense" means failing to:

- (a) Pay the prevailing wage required pursuant to this chapter;
- (b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;
- (c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or
- (d) Comply with subsection 4 or 5 of NRS 338.070.

13. "Prime contractor" means a contractor who:

- (a) Contracts to construct an entire project;
- (b) Coordinates all work performed on the entire project;
- (c) Uses his or her own workforce to perform all or a part of the public work; and
- (d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➡ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148. ~~It~~ **or section 2 or 3 of this act.**

14. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

15. "Public work" means any project for the new construction, repair or reconstruction of:

- (a) A project financed in whole or in part from public money for:
 - (1) Public buildings;
 - (2) Jails and prisons;
 - (3) Public roads;
 - (4) Public highways;
 - (5) Public streets and alleys;
 - (6) Public utilities;
 - (7) Publicly owned water mains and sewers;
 - (8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

16. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

17. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➡ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

18. "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

➡ for the provision of labor, materials, equipment or supplies for a construction project.

19. "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

20. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

21. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

22. "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 5. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive, ~~and~~ **and section 2 of this act;**

(b) NRS 338.143 to 338.148, inclusive, ~~§§~~, **and section 3 of this act;**

(c) NRS 338.169 to 338.1699, inclusive; or

(d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

~~Section 1.~~ **Sec. 6.** NRS 338.139 is hereby amended to read as follows:

338.139 1. A public body or its authorized representative may award a contract for a public work **for which the cost is less than \$250,000** pursuant to NRS 338.1375 to 338.13895, inclusive, to a specialty contractor if ~~§§~~ **the public body or its authorized representative determines that:**

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed ~~§§~~ **pursuant to chapter 624 of NRS;** and

(b) The public work to which the contract pertains is not part of a larger public work.

2. ~~If a contract to which subsection 1 applies involves the performance of work outside the scope of the specialty contractor's license, the public body or its authorized representative may not award a contract to the specialty contractor unless the public body or its authorized representative determines that:~~

~~(a) The work that is outside the scope of the specialty contractor's license is incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform, as provided for in subsection 1 of NRS 624.220;~~

~~(b) The State Contractors' Board has issued a certification to the specialty contractor pursuant to subsection 3; or~~

~~(c) The specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS.~~

3. ~~Upon application by a specialty contractor, the State Contractors' Board may issue to a qualified specialty contractor a certification which allows the specialty contractor to enter into contracts to be awarded pursuant to NRS 338.1375 to 338.13895, inclusive, that involve the performance of work which is outside the scope of the specialty contractor's license and which is more than incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform. A specialty contractor is qualified to receive a certification pursuant to this subsection if:~~

~~(a) The specialty contractor is licensed for his or her specialty pursuant to chapter 624 of NRS; and~~

~~(b) The specialty contractor has successfully completed at least one public work in the State of Nevada pursuant to NRS 338.1375 to 338.13895, inclusive, which involved the use of two or more crafts or trades unrelated to his or her specialty.~~

~~4.1~~ Except as otherwise provided in this section, if a public body or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.1375 to 338.13895, inclusive, all work to be performed on the public work to which the contract pertains that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who:

(a) Is licensed to perform such work; and

(b) At the time of the performance of the work, is not on disqualified status with the State Public Works Board pursuant to NRS 338.1376.

~~5. Nothing in this section shall be construed to prohibit a specialty contractor who is also licensed as a general building contractor pursuant to chapter 624 of NRS from entering into a contract for a public work or performing work himself or herself on a public work as allowed by subsection 3 of NRS 624.215.~~

~~6. The State Contractors' Board shall adopt regulations prescribing the procedure for the certification of specialty contractors.~~

3. If a specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS, nothing in this section shall be construed to prohibit the specialty contractor who is acting in the capacity of a prime contractor from performing work himself or herself on the public work that is outside the scope of the specialty contractor's license as otherwise allowed by subsection 3 of NRS 624.215.

~~Sec. 2.1~~ Sec. 7. NRS 338.148 is hereby amended to read as follows:

338.148 1. A local government or its authorized representative may award a contract for a public work for which the cost is less than \$250,000 to a specialty contractor pursuant to NRS 338.143 to 338.1475, inclusive, if ~~the local government or its authorized representative determines that:~~

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed ~~the local government or its authorized representative determines that:~~ pursuant to chapter 624 of NRS; and

(b) The public work to which the contract pertains is not part of a larger public work.

~~2. If a contract to which subsection 1 applies involves the performance of work outside the scope of the specialty contractor's license, the local government or its authorized representative may not award a contract to the specialty contractor unless the local government or its authorized representative determines that:~~

~~(a) The work that is outside the scope of the specialty contractor's license is incidental and supplemental to the performance of the work that the~~

~~specialty contractor is licensed to perform, as provided for in subsection 4 of NRS 624.220;~~

~~(b) The State Contractors' Board has issued a certification to the specialty contractor pursuant to subsection 3; or~~

~~(c) The specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS;~~

~~3. Upon application by a specialty contractor, the State Contractors' Board may issue to a qualified specialty contractor a certification which allows the specialty contractor to enter into contracts to be awarded pursuant to NRS 338.143 to 338.1475, inclusive, that involve the performance of work which is outside the scope of the specialty contractor's license and which is more than incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform. A specialty contractor is qualified to receive a certification pursuant to this subsection if:~~

~~(a) The specialty contractor is licensed for his or her specialty pursuant to chapter 624 of NRS; and~~

~~(b) The specialty contractor has successfully completed at least one public work in the State of Nevada pursuant to NRS 338.143 to 338.1475, inclusive, which involved the use of two or more crafts or trades unrelated to his or her specialty;~~

~~4. Except as otherwise provided in this section, if~~ a local government or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.143 to 338.1475, inclusive, all work to be performed on the public work to which the contract pertains that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who is licensed to perform such work.

~~f 5. Nothing in this section shall be construed to prohibit a specialty contractor who is also licensed as a general building contractor pursuant to chapter 624 of NRS from entering into a contract for a public work or performing work himself or herself on a public work as allowed by subsection 3 of NRS 624.215.~~

~~6. The State Contractors' Board shall adopt regulations prescribing the procedure for the certification of specialty contractors.~~

3. If a specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS, nothing in this section shall be construed to prohibit the specialty contractor who is acting in the capacity of a prime contractor from performing work himself or herself on the public work that is outside the scope of the specialty contractor's license as otherwise allowed by subsection 3 of NRS 624.215.

~~{Sec. 3.}~~ **Sec. 8.** NRS 624.220 is hereby amended to read as follows:

624.220 1. The Board shall adopt regulations necessary to effect the classification and subclassification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to

those in which the contractor is classified and qualified to engage as defined by NRS 624.215 and the regulations of the Board.

2. The Board shall limit the field and scope of the operations of a licensed contractor by establishing a monetary limit on a contractor's license, and the limit must be the maximum contract a licensed contractor may undertake on one or more construction contracts on a single construction site or subdivision site for a single client. The Board may take any other action designed to limit the field and scope of the operations of a contractor as may be necessary to protect the health, safety and general welfare of the public. The limit must be determined after consideration of the factors set forth in NRS 624.260 to 624.265, inclusive.

3. A licensed contractor may request that the Board increase the monetary limit on his or her license, either on a permanent basis or for a single construction project. A request submitted to the Board pursuant to this subsection must be in writing on a form prescribed by the Board and accompanied by such supporting documentation as the Board may require. If a request submitted pursuant to this section is for a single construction project, the request must be submitted to the Board at least 2 working days before the date on which the licensed contractor intends to submit a bid for the project.

4. ~~{Subject}~~ ***Except as otherwise provided in NRS 338.139 and 338.148 and sections 2 and 3 of this act, and subject*** to the provisions of regulations adopted pursuant to subsection 5, nothing contained in this section prohibits a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which the specialty contractor is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

5. The Board shall adopt regulations establishing a specific limit on the amount of asbestos that a licensed contractor with a license that is not classified for the abatement or removal of asbestos may abate or remove pursuant to subsection 4.

~~{Sec. 4}~~ ***Sec. 9.*** This act becomes effective ~~on July 1, 2011~~, ***upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.***

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 487 to Senate Bill No. 487 amends the bill as a whole and identifies the circumstances in which a specialty contractor can contract for a public work project with a price of \$250,000 or more and that is outside the scope of the contractor's specialty license.

It provides that a public body or local government can award a contract for such a public work to a specialty contractor if: the project is not part of a larger project work project; and the majority of the work to be performed on the project consists of specialty contracting for which the contractor is licensed.

It specifies that a public body or a local government may award a contract for a public works project over \$250,000 to a specialty contractor for work outside of his or specialty if: such work is incidental and supplemental to the project; the specialty contractor has received a certification from the State Contractors' Board allowing such work; or he or she is also licensed as a general building contractor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 12.

Resolution read second time and ordered to third reading.

Assembly Bill No. 18.

Bill read second time and ordered to third reading.

Assembly Bill No. 147.

Bill read second time and ordered to third reading.

Assembly Bill No. 156.

Bill read second time and ordered to third reading.

Assembly Bill No. 217.

Bill read second time and ordered to third reading.

Assembly Bill No. 464.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 113, 168, 212, 278, 313, 340, 347, be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

Senator Horsford moved to dispense with reading of all statements and place all statements in the Journal.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 10.

Bill read third time.

Remarks by Senator Copening.

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

Senate Bill No. 10 requires the State Board of Health to adopt standards for determining whether there are an adequate number of certain types of health care cases in the community to be served to support approving an amendment to the license of certain medical or other related facilities to add such a service. The Health Division must apply these standards in making a determination of whether to approve amending a license to add such a service.

Existing law requires certain licensed medical or other related facilities to obtain the approval of the Health Division to amend their licenses to add certain services to the licenses (NRS 449.087). Those services are for the intensive care of newborn babies; the treatment of burns; the transplant of organs; the performance of open-heart surgery; and a center for the treatment of trauma victims.

This measure is effective on July 1, 2011.

Roll call on Senate Bill No. 10:

YEAS—21.

NAYS—None.

Senate Bill No. 10 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 15.

Bill read third time.

Remarks by Senator Breedon.

Senator Breedon requested that her remarks be entered in the Journal.

Senate Bill No. 15 clarifies that the Department of Motor Vehicles must cancel the previously reinstated license of a person who has been subsequently convicted of driving under the influence of intoxicating liquor or a controlled substance if that person does not pay the required civil penalty within 30 days of being notified that the license will be cancelled.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 15:

YEAS—21.

NAYS—None.

Senate Bill No. 15 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 24.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 24 revises the procedure for issuing a writ of execution in a justice court by authorizing the clerk of the court, in addition to the Justice of the Peace, to issue and renew writs of execution. The measure also modifies the information that is contained therein.

Court clerks are already authorized to issue writs of execution in the District Courts.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 24:

YEAS—21.

NAYS—None.

Senate Bill No. 24 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 26.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 26 pertains to the appointment of public defenders and the collection of fines, fees, and other costs associated with adult and juvenile defendants. The bill provides standards to determine whether the parent or guardian of a child is required to pay for the child's legal representation in juvenile court, if the court has appointed an attorney to represent the child, and

requires the juvenile court to make a finding that a parent or guardian of the child is indigent under certain circumstances.

The measure authorizes the court to enter a civil judgment against a criminal defendant for the amount of any delinquent fines, administrative assessments, fees, and restitution imposed. The juvenile court may enter a similar civil judgment against a parent or child.

In both instances, the civil judgment may be treated the same as a judgment for money in a civil action and a person who fails to satisfy the judgment may be found in contempt. The court may include satisfaction of a civil judgment entered by the juvenile court in any sentence imposed by the court against a defendant transferred from the juvenile court.

The procedure by which a juvenile court judge approves or rejects the recommendation of master or directs a hearing *de novo* is revised by the bill.

Finally, Senate Bill No. 26 authorizes a juvenile court to establish a restitution contribution fund to provide restitution to victims of unlawful acts committed by children.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 26:

YEAS—21.

NAYS—None.

Senate Bill No. 26 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 38.

Bill read third time.

Remarks by Senator Denis.

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

Senate Bill No. 38 makes several changes with regard to the authority of the Superintendent of Public Instruction to distribute the quarterly apportionment paid to school districts and certain public schools. Under the provisions of the bill, the State Superintendent is authorized to deduct from the apportionment a claim due to the sponsor of a charter school, or to repay a claim by a district, charter school, or university school that was later found to be unearned, illegal, or excessive. In addition, the Superintendent may withhold the entire amount of the apportionment to one of these entities for the failure to submit a report required by statute.

Any withholding of an apportionment that is the result of a charter school failing to submit a report through the sponsor, would only be for the amount due to the charter school. An appeals process is provided should the affected entity wish to challenge such actions. The Superintendent also is authorized to suspend the "hold harmless" provisions for calculating pupil enrollment if the Department determines that the school district or charter school deliberately causes a decline in enrollment in order to receive a higher apportionment.

Finally, the bill authorizes an immediate adjustment to quarterly apportionments if a Department audit determines a pupil is not enrolled in or attending school.

The bill was requested by the State Department of Education to clarify its authority concerning certain acts, whether unintentional or deliberate, that affect quarterly apportionments from the Distributive School Account.

The bill is effective on July 1, 2011.

Roll call on Senate Bill No. 38:

YEAS—20.

NAYS—Kieckhefer.

Senate Bill No. 38 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 40.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 40 requires the State Public Works Board to adopt regulations concerning the construction, maintenance, operation, and safety of certain building and structures on the property of this State. The Deputy Manager for Compliance and Code Enforcement shall make recommendations to the Board concerning these regulations.

The bill also provides that those State agencies which currently adopt their own construction, maintenance, and safety building regulations shall not adopt such regulations that conflict with regulations adopted by the State Public Works Board.

Any existing regulations for those State agencies that adopt their own building regulations remain in effect until the State Public Works Board adopts its own regulations pursuant to this measure.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 40:

YEAS—21.

NAYS—None.

Senate Bill No. 40 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 53.

Bill read third time.

Remarks by Senator Copenig.

Senator Copenig requested that her remarks be entered in the Journal.

Senate Bill No. 53 excludes certain seasonal or temporary recreation programs, and certain out-of-school recreation programs, from State and local governmental child care facility licensing requirements.

The measure requires that a local government seeking to operate an out-of-school recreation program obtain a permit from the Bureau of Services for Child Care within the Department of Health and Human Services. To obtain the permit, the local government must complete an application, pay a fee, and meet certain other requirements. Out-of-school recreation programs must comply with health and safety standards, and other requirements relating to participant safety. Further, the measure establishes certain requirements related to program staffing, enrollment limits, record keeping, and inspections.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 53:

YEAS—21.

NAYS—None.

Senate Bill No. 53 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 57.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 57 expands the circumstances in which a court is authorized to issue a warrant to take physical custody of a child in a divorce proceeding. During a proceeding to establish custody of a child or to enforce or modify a child custody determination, a court may issue a warrant to take physical custody of the child if there is probable cause to believe that the child has been abducted. If the court determines that exigent circumstances exist, such as imminent danger of the child's removal from Nevada or serious physical harm, the court must, before issuing the warrant, hold an *ex parte* hearing at which the party seeking the warrant is present but the party alleged to have committed the abduction is not. If no exigent circumstances exist, both parties must be given the opportunity to be heard.

The warrant issued by the court must determine placement of the child pending final relief.

This measure was brought by the Office of the Attorney General to bring Nevada into conformance with standards of the Fourth Amendment of the United States Constitution concerning probable cause for "pick-up orders" issued by family court judges commanding the return of a child from a non-custodial parent.

This measure is effective on July 1, 2011.

Roll call on Senate Bill No. 57:

YEAS—21.

NAYS—None.

Senate Bill No. 57 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 66.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 66 authorizes the Attorney General to organize or sponsor multidisciplinary teams to review the death of a victim of domestic violence under certain circumstances. The purpose of these teams is to examine trends and patterns of domestic violence deaths in Nevada; determine the number and type of incidents to be reviewed; make policy and other recommendations for prevention of such deaths; educate the public, victim support providers, and policymakers concerning domestic violence crimes; and recommend policies, practices, and services to encourage collaboration and reduce domestic violence deaths. Such teams may also meet and share information with similar teams created to review the death of a child.

The teams created by this measure will include a representative of the Attorney General, law enforcement, the district attorney, the coroner, social service providers, and others as necessary. The results of a team's review are not admissible in any civil action or proceeding.

The measure also expands the authority of a multidisciplinary team created under existing statute by the court or agency of local government to obtain relevant information and records and to meet with others who may have relevant information.

Finally, the measure adds multidisciplinary teams to the list of entities authorized to receive data or information from certain reports and investigations concerning the abuse or neglect of children, and requires the State Board of Health to allow such teams to use death certificates in the same manner as the Board allows a multidisciplinary team to review the death of a child.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 66:

YEAS—21.

NAYS—None.

Senate Bill No. 66 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 81.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 81 requires the State Controller to pay accounts payable electronically, unless doing so would cause undue hardship to the payee. In addition, Senate Bill No. 81 changes the statute of limitation to four years for when the State Controller may take certain action to collect debts owed to the State.

The provisions in the bill relating to the statute of limitations for debt collection conform with those adopted in Senate Bill No. 31 of the 2011 76th Legislative Session, which was approved by the Nevada State Senate on March 18, 2011.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 81:

YEAS—21.

NAYS—None.

Senate Bill No. 81 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 106.

Bill read third time.

Remarks by Senator Kihuen.

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

Senate Bill No. 106 expands the use of trading by Nevada Magazine. It allows trading for services or products that promote or benefit the magazine, including, without limitation, circulation services, sponsorship of awards, memberships, and entry fees for trade shows.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 106:

YEAS—21.

NAYS—None.

Senate Bill No. 106 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 110.

Bill read third time.

Remarks by Senator Lee

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

Senate Bill No. 110 establishes a new business license category and fee structure in Clark County and those cities within Clark County with populations of 150,000 or more. The measure is specific to contractors licensed pursuant to Chapter 624 of the *Nevada Revised Statutes* and affords such contractors a single business license to conduct their business throughout the Las Vegas Valley.

The bill requires the county and cities to enter into an interlocal agreement for the establishment of such a business license and the necessary rights, obligations, and

responsibilities associated with the license. Clark County and the affected cities must also adopt ordinances that: prescribe the process for obtaining such a business license; set the appropriate licensing fees; and provide any other requirements necessary to establish the system for issuing the business license. The bill also specifies that in order for a person to be eligible to obtain the business license, he or she must meet whatever requirements are set forth in the ordinance and satisfy other requirements relating to the maintenance of the business in one location within either the unincorporated county or one of the incorporated cities. In addition, a contractor who obtains such a business license is subject to all other licensing and permitting requirements of the State, counties, and cities in which the licensee does business.

Clark County and the those cities in Clark County with populations of 150,000 or more must enter into the required interlocal agreements and enact the required ordinances on or before one year after the effective date of the measure.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 110:

YEAS—21.

NAYS—None.

Senate Bill No. 110 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 112.

Bill read third time.

Remarks by Senator Copening.

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

Senate Bill No. 112 allows the juvenile court to review certain records relating to the custody of a child or the involvement of a child with an agency that provides child welfare services when it has access to those records. The amendment also limits the use of such records by the juvenile court to assist the court in determining the appropriate placement or plan of treatment for the child.

This measure is effective on July 1, 2011.

Roll call on Senate Bill No. 112:

YEAS—21.

NAYS—None.

Senate Bill No. 112 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 127.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 127 provides that if a ward is a veteran who receives funds from the Department of Veterans Affairs, all money payable to the ward from other sources must be handled by the guardian in the same manner as the payments from the Department unless doing so is inconsistent with federal law.

The measure also reduces from 5 percent to 4 percent the annual allowable compensation for a guardian of a veteran ward and eliminates the court's discretion to increase the amount for extraordinary services.

Finally, Senate Bill No. 127 increases from five to ten the number of veteran wards a guardian may serve, unless authorized by the Department to serve more than ten.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 127:

YEAS—21.

NAYS—None.

Senate Bill No. 127 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 130.

Bill read third time.

Remarks by Senator Breeden.

Senator Breeden requested that her remarks be entered in the Journal.

Senate Bill No. 130 revises the effective date of most provisions relating to the Department of Motor Vehicles' off-highway vehicle titling program to July 1, 2012, or 30 days after the date the Department notifies the public it is ready to begin the program, whichever occurs first. The bill transfers responsibility to approve the designation of any portion of a State highway as permissible for off-highway vehicle use from the Department of Motor Vehicles to the Department of Transportation. Senate Bill No. 130 also authorizes the Department of Motor Vehicles to release certain personal information relating to the title and registration of off-highway vehicles.

This bill is effective upon passage and approval.

Roll call on Senate Bill No. 130:

YEAS—21.

NAYS—None.

Senate Bill No. 130 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 142.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 142 makes various changes to laws governing the towing and storage of motor vehicles. The bill authorizes an insurer, who has obtained consent from the vehicle owner or the owner's agent, to obtain possession of a motor vehicle from a tow car operator. To obtain possession, the insurer must provide the tow car operator with a consent form that satisfies the requirements established by the Commissioner of Insurance, Department of Business and Industry.

If a motor vehicle is towed and stored at the request of a law enforcement officer after an accident, a tow car operator shall not satisfy any lien or impose any administrative or processing fee for four business days after the vehicle is placed in storage. A tow car operator may not impose any fee relating to the auction of a towed motor vehicle until certain notice requirements are met.

If a vehicle is a total loss and if the insurer provides notice, a vehicle owner or an agent of an owner may consent to a vehicle being towed and placed in storage at the insurer's direction and expense.

If the vehicle is repairable, an owner or authorized agent may consent to the vehicle being towed to a repair shop designated by the owner or agent.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 142:

YEAS—21.

NAYS—None.

Senate Bill No. 142 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 144.

Bill read third time.

Remarks by Senator Breeden.

Senator Breeden requested that her remarks be entered in the Journal.

Senate Bill No. 144 requires a garage performing repairs on a motor vehicle to check the air pressure in each tire on the vehicle and adjust the pressure to the manufacturers' specifications.

The bill also imposes penalties for failure to comply with these requirements.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 144:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Rhoads, Roberson, Settlemeyer—9.

Senate Bill No. 144 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 152.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 152 makes several changes to the conduct of insurance business. The bill authorizes the use of an automated claims adjudication system with claims arising under an insurance contract for portable electronic insurance coverage. It specifies additional persons who are not considered to be adjusters for purposes of the Nevada Insurance Code; and it revises provisions concerning applications for licensure submitted by an applicant that is a firm or corporation rather than a natural person.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 152:

YEAS—21.

NAYS—None.

Senate Bill No. 152 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 154.

Bill read third time.

Remarks by Senator Breeden and Brower.

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

SENATOR BREEDEN:

Senate Bill No. 154 requires the Department of Motor Vehicles to develop a special license plate for family members of a person who died as a result of injuries sustained while on active duty in the Armed Forces of the United States.

This bill is effective on October 1, 2011.

SENATOR BROWER:

I want to commend my colleague for bringing this bill forward. As a country, we lose sight of the fact that every week some member of our armed forces dies or is wounded in the ongoing conflicts. Unless you read the list in the New York Times every day, you do not understand that it is happening. This is a small reminder, but one way to remind ourselves, as a people, that it is happening. The number of wounded far outpaces the number killed in action. Those wounds can be devastating. They affect real people and real families in our State and around the country every day. Thank you, I urge your support.

Roll call on Senate Bill No. 154:

YEAS—21.

NAYS—None.

Senate Bill No. 154 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 159.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 159 revises the information provided by the Department of Corrections (DOC) to inmates upon release, whether the release is by expiration of sentence, pardon, or parole. The bill requires that upon release, inmates must be given information about obtaining employment, including programs and organizations that offer workplace bonds; and acquiring a valid driver's license or identification necessary for obtaining employment.

For those on probation, the measure allows the court to include a requirement that any earnings of the probationer be held in a trust administered by a court-designated trustee. The trust would be used to pay for restitution, child support, and other obligations as ordered by the court.

Finally, the bill expands the list of felons who may be ordered by the court to participate in an alternative sentence program, treatment, or other activity as a condition of probation. Currently, the law allows those found guilty of a category C, D, or E felony to be ordered into such programs. Senate Bill No. 159 would also include allowing those found guilty of a non-violent category B felony into those same programs, at the court's discretion.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 159:

YEAS—21.

NAYS—None.

Senate Bill No. 159 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 182.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 182 revises provisions governing the Solar Thermal Systems Demonstration Program. The bill requires an installer of these systems to possess an appropriate license issued by the Nevada State Contractors' Board, and removes a requirement that each solar thermal system have a meter or other measuring device installed.

The bill specifies which performance certification a solar thermal system must have in order to be eligible for a rebate pursuant to the Demonstration Program.

Senate Bill No. 182 also clarifies that the rebates are provided by the utility rather than the Public Utilities Commission of Nevada.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 182:

YEAS—21.

NAYS—None.

Senate Bill No. 182 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 187.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 187 replaces the requirement that a prisoner convicted of certain sexual offenses may only be released on parole by the Board of Parole Commissioners with certification by a panel that the prisoner does not represent a high risk to reoffend. Instead, the bill requires that before being granted or continued on parole, the prisoner must be evaluated by a panel within 120 days before a parole hearing. The panel must adopt regulations to ensure that the evaluations are based on currently accepted standards of assessment, contain a statement about other relevant information known about the prisoner, and rate the prisoner's risk to reoffend.

The measure also authorizes the Board to require an evaluation of a sex offender to assist in determining parole and clarifies that a prisoner does not have a right to an evaluation or reevaluation more frequently than the prisoner's regularly scheduled parole hearings.

Finally, Senate Bill No. 187 requires that certain meetings of the panel are subject to the Open Meeting Law.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 187:

YEAS—21.

NAYS—None.

Senate Bill No. 187 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 194.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 194 cites the importance of full disclosure to potential members of class action lawsuits in order for the members to make an informed decision whether to remain a member of the class and participate in the suit or to opt out of the lawsuit.

The measure urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require an attorney in class actions to make all of the disclosures required under the Federal Rules of Civil Procedure to each member of the class.

Effective in 2009, the Federal Rules of Civil Procedure require that notices to class members must concisely and clearly state the following seven points: the nature of the action; the definition of the class certified; the class claims, issues, or defenses; that a class member may enter an appearance through counsel if the member desires; that the court will exclude from the class any member who requests exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment on class members.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 194:

YEAS—21.

NAYS—None.

Senate Bill No. 194 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 196.

Bill read third time.

Remarks by Senator Denis.

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

Senate Bill No. 196 makes various changes concerning empowerment schools. The measure removes the sunset on the empowerment schools' statutes adopted by the 2007 74th Legislature and eliminates the statutory cap limiting the number of empowerment schools to 100 schools statewide.

This measure will provide additional time for the operation of empowerment schools for evaluation purposes, and allows for a possible future expansion of such schools. Due to the economic downturn, funds for the empowerment schools pilot program authorized by the 2007 74th Legislature were reverted prior to the start of the program. Although some school districts have established a limited program, according to testimony, future legislatures may want to provide the necessary resources to operate and evaluate the program statewide. Since the statutes concerning empowerment schools are due to expire on June 30, 2011, the bill will extend the program by removing the sunset provision.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 196:

YEAS—21.

NAYS—None.

Senate Bill No. 196 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 198.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 198 makes various changes to the regulation of banks and retail trust companies. The bill prohibits a bank that acquires real property through the collection of debts from holding the property for longer than five years. A bank may request, and the Commissioner of Financial Institutions, Department of Business and Industry, may grant, an extension of not more than five additional years. The Commissioner shall not grant more than one extension. The bill also removes the requirement that a bank annually charge off a certain percentage of the value of such real property.

The bill makes certain changes in the allowable investments of stockholders' equity and the minimum capital requirements for a retail trust company.

The Commissioner may approve locating a branch of a retail trust company in another state if the company provides written documentation from an appropriate state agency that the company is authorized to do business in that state.

Senate Bill No. 198 makes certain changes in the procedure for denying an application for licensure as a retail trust company and for removal of an official or employee of such a company.

This bill is effective upon passage and approval.

Roll call on Senate Bill No. 198:

YEAS—21.

NAYS—None.

Senate Bill No. 198 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 200.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 200 requires the manager or board of an association of a time-share plan to maintain a complete list of the names and addresses of all time-share owners, which must be updated not less than quarterly. Unless the declaration or bylaws of the time-share plan provide otherwise, and notwithstanding any law to the contrary, personal information about the owners may not be published or provided to another person without prior written consent of the owner whose information is requested. Before obtaining consent, the manager or executive board must provide the owner with the option to limit the information published, as well as a written disclosure concerning the effect of publishing personal information.

The manager or board must also mail materials to time-share owners at the request of an owner under certain circumstances and establish procedures for mailings by the owners themselves.

As an alternative to publishing in a newspaper the notice of a sale to satisfy a lien, Senate Bill No. 200 allows for such notices and a specific declaration to be posted on an Internet website for three consecutive weeks, and for a statement to be published in the newspaper informing interested parties that the notice of sale is posted on the Internet website.

The bill includes similar alternative publishing provisions for the sale of real property in foreclosure under a deed of trust.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 200:

YEAS—21.

NAYS—None.

Senate Bill No. 200 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

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

Senate in recess at 3:27 p.m.

SENATE IN SESSION

At 5:10 p.m.

President Pro Tempore Schneider presiding.

Quorum present.

Senate Bill No. 201.

Remarks by Senators Wiener, McGinness and Horsford.

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

SENATOR WIENER:

Senate Bill No. 201 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.

If a mediation program is established, the Attorney General must create necessary regulations and procedures, and prepare an annual report to the Board of Prison Commissioners describing the complaints, the dollar amount of the claims, the number of complaints resolved through the program, the amount paid to offenders to resolve those claims, and the savings realized by the program.

This measure is effective on October 1, 2011.

SENATOR MCGINNESS:

I had some concerns when we looked at this bill in Committee. We did not see the fiscal note until now. I am concerned that the fiscal note is substantial. Does the Chair have any further information or not?

SENATOR HORSFORD:

I do not have a fiscal note identified.

Senator Horsford moved that Senate Bill No. 201 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

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

Senate in recess at 5:13 p.m.

SENATE IN SESSION

At 5:14 p.m.

President Krolicki presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 209.

Bill read third time.

Remarks by Senator Copenig.

Senator Copenig requested that her remarks be entered in the Journal.

Senate Bill No. 209 requires the Health Division to make certain annual reports concerning sentinel events available on the Department of Health and Human Services' website. The bill also requires the Health Division to report publicly, in a format which allows comparisons of medical facilities, certain information that is submitted to the Internet-based surveillance system established and maintained by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and analyzed by the Health Division.

The term "sentinel event" is currently defined for the purposes of these reports to mean an unexpected occurrence involving facility-acquired infection, death or serious physical or psychological injury, or the risk thereof.

The measure is effective on July 1, 2011.

Roll call on Senate Bill No. 209:

YEAS—21.

NAYS—None.

Senate Bill No. 209 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 213.

Bill read third time.

The following amendment was proposed by Senator Schneider:

Amendment No. 334.

"SUMMARY—Revises provisions governing the registration requirements for employee leasing companies. (BDR 53-1018)"

"AN ACT relating to employee leasing companies; revising the requirements for the issuance or renewal of a certificate of registration to operate an employee leasing company in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain applicants for the issuance or renewal of a certificate of registration to operate an employee leasing company in this State: (1) to maintain positive working capital throughout the entire period covered by certain financial statements which the applicant is required to submit with its application; or (2) if the applicant has not maintained positive working capital throughout the specified period, to provide a bond or certain other securities with a market value equaling the maximum deficiency in working capital during the specified period plus \$100,000. (NRS 616B.679) This bill instead requires an applicant for the issuance or renewal of a certificate of registration to operate an employee leasing company in this State: (1) to have positive working capital ~~for the time~~ for the period covered by the financial statements submitted with an application ~~are prepared;~~ or (2) if the applicant does not have positive working capital ~~for the time~~ for the period covered by the financial statements ~~are prepared;~~

to provide a bond or certain other securities with a market value equaling the maximum deficiency in working capital ~~for the time~~ **for the period covered by** the financial statements ~~are prepared~~ plus \$100,000. This bill also requires that a financial statement which is submitted with an application be prepared not more than 13 months before the submission of the application.

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

Section 1. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his or her position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of chapter 76 of NRS.

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) A financial statement of the applicant setting forth the financial condition of the employee leasing company. Except as otherwise provided in subsection 5, the financial statement must include, without limitation:

(1) For an application for issuance of a certificate of registration, the most recent audited financial statement of the applicant, which must have been completed not more than 13 months before the date of application; or

(2) For an application for renewal of a certificate of registration, an audited financial statement which must have been completed not more than 180 days after the end of the applicant's fiscal year.

(i) A registration or renewal fee of \$500.

(j) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

5. A financial statement submitted with an application pursuant to this section must be prepared in accordance with generally accepted accounting principles, must be audited by an independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located and must be without qualification as to the status of the employee leasing company as a going concern. An employee leasing company that has not had sufficient operating history to have an audited financial statement based upon at least 12 months of operating history must present financial statements reviewed by a certified public accountant covering its entire operating history. ~~Each~~ **The financial statements must ~~be prepared not more than 13 months before the submission of an application and must:~~**

(a) Indicate that the applicant has ~~maintained~~ positive working capital, as defined by generally accepted accounting principles, ~~throughout~~ for the period covered by the financial statements; ~~at the time the financial statements are prepared;~~ statements; or

(b) Be accompanied by a bond, irrevocable letter of credit or securities with a minimum market value equaling the maximum deficiency in working capital ~~at the time the financial statements are prepared~~ for the period covered by the financial statements plus \$100,000. The bond, irrevocable letter of credit or securities must be held by a depository institution designated by the Administrator to secure payment by the applicant of all taxes, wages, benefits or other entitlements payable by the applicant.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 334 to Senate Bill No. 213 provides that the financial statements required from certain applicants for the issuance or renewal of a certificate of registration to operate an employee leasing company must meet certain specifications.

The financial statements must either indicate that the applicant has positive working capital for the period covered by the financial statements or be accompanied by specified security with a minimum market value equaling the maximum deficiency in working capital for the period covered by the financial statements, plus \$100,000.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 218.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 218 authorizes the Nevada Gaming Commission, with advice and assistance of the State Gaming Control Board, to provide by regulation for the operation and registration of hosting centers not located at a licensed gaming establishment. Similar regulations may be established for the licensing of service providers to perform certain services on behalf of a non-restricted gaming licensee or interactive gaming licensee; or provide services or devices that patrons of licensed establishments use to obtain cash or wagering instruments.

The measure adds definitions of a "cash access and wagering instrument service provider" and an "interactive gaming service provider." A person may not operate as a cash access and wagering service provider without proper gaming licenses, and existing regulations for interactive gaming must also include licensing for service providers based on certain standards.

The bill amends the process and requirements for transferring a license upon certain changes in the business entity, and revises provisions concerning the necessary licensing of partners in a limited partnership and members of a limited-liability company. The bill also clarifies provisions concerning the unlawful use or possession of certain devices, including devices that project the outcome of games or keep track of cards played.

Finally, Senate Bill No. 218 makes various changes to administrative and operational functions of the Commission and the Board, and repeals provisions relating to the Account for investigating Cash Transactions of Gaming Licenses.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 218:

YEAS—21.

NAYS—None.

Senate Bill No. 218 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 230.

Bill read third time.

Remarks by Senator Denis.

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

Senate Bill No. 230 requires school districts and the governing body of a charter school to adopt a policy that specifies that no food containing industrially produced trans fats be purchased or provided to students. The policy will specify that trans fats will not be used in food preparation by the school district or charter school. This restriction applies to food sold on school grounds during the school days from the school cafeteria, vending machines, or school food establishments, among others. The policy must also include guidelines for parents and others concerning food brought to the school for authorized school activities, such as back-to-school and celebratory events. The policy does not apply to food made available under the federal School Breakfast Program or the National School Lunch Program.

According to testimony, although awareness is growing of the public health concerns regarding the presence of trans fats in foods and beverages, most school districts do not have a policy concerning trans fats in food that is purchased by the district for sale at its schools.

The bill is effective on July 1, 2011.

Roll call on Senate Bill No. 230:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—9.

Senate Bill No. 230 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 238.

Bill read third time.

Remarks by Senator Breeden.

Senator Breeden requested that her remarks be entered in the Journal.

Senate Bill No. 238 modifies the number of members and composition of the Advisory Board on Automotive Affairs, adding one representative each for licensed operators of emissions stations, motor vehicle dealers, and motor vehicle insurers. The bill also modifies the residency and professional experience requirements for appointment to the Board; makes changes to the Board's authority to call meetings; and specifies that the Chair of the Board is a non-voting member unless the vote is needed to break a tie.

The provisions in this bill which outline members' terms of office become effective upon passage and approval. The remainder of this bill is effective on July 1, 2011.

Senator Manendo disclosed that he works in the collision repair industry, and the voluntary informational advisory board would not affect him any differently than anyone else, and that he will be voting on Senate Bill No. 238.

Roll call on Senate Bill No. 238:

YEAS—21.

NAYS—None.

Senate Bill No. 238 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 245.

Bill read third time.

Remarks by Senator Copening.

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

Senate Bill No. 245 creates the Statewide Alert System for the Safe Return of Missing Endangered Older Persons. The system 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 other public and private organizations to assist in the search for and safe return of missing endangered older persons.

The 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 who has been diagnosed with a medical or mental health condition that places the person in danger of serious physical harm or death; or who is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death.

The Department of Public Safety is required to: adopt regulations governing the operation of the system; develop a plan for carrying out the system which sets forth the components of the system; administer the system; supervise and evaluate any training associated with the system; monitor, review, and evaluate the activations of the system for compliance with the provisions of this bill; and conduct periodic tests of the system.

The measure also prescribes the circumstances under which the system may be activated, and provides immunity from civil liability for certain persons and organizations that participate in the system. Finally, the measure provides a penalty for intentionally making any false or misleading statement to cause a law enforcement agency to activate the system.

The measure is effective upon passage and approval for the purpose of adopting regulations, and on January 1, 2012, for all other purposes.

Roll call on Senate Bill No. 245:

YEAS—21.

NAYS—None.

Senate Bill No. 245 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 248.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 248 requires a motor vehicle operator to overtake and pass a bicycle or electric bicycle if they are going in the same direction by moving the vehicle into the immediate left lane, if there is more than one lane traveling in the same direction and it is safe to move into that lane, or by passing to the left of the bicycle at a distance of not less than three feet from the bicycle or electric bicycle.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 248:

YEAS—21.

NAYS—None.

Senate Bill No. 248 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 251.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 251 creates the Nevada Sunset Commission and sets forth the qualifications of the members of the Commission who are appointed by seven different appointing authorities. The bill sets forth the duties of the Commission to include reviewing and evaluating all governmental programs and services in Nevada for necessity, efficacy, and duplication. Senate Bill No. 251 also requires the Commission to meet at least bimonthly and to annually report its findings and recommendations to the Governor and the Legislature. The Commission may apply for and receive gifts, grants, contributions, or other money to carry out its duties; however, it may not receive gifts, grants, or contributions from a governmental agency that the Commission is reviewing, examining, or evaluating.

Senate Bill No. 251 specifies that one member each of the Nevada Sunset Commission are appointed by the Governor, the Majority Leader of the Senate, the Speaker of the Assembly, the Minority Leaders of the Senate and Assembly, the Nevada Association of Counties, and the Nevada League of Cities and Municipalities. All members must be from the general public and be versed in the operation or management of state or local governments and demonstrate the knowledge, judgment, and experience to perform the duties of the Commission.

The bill is effective on July 1, 2011.

Roll call on Senate Bill No. 251:

YEAS—21.

NAYS—None.

Senate Bill No. 251 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 256.

Bill read third time.

Remarks by Senator Copening.

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

Senate Bill No. 256 prohibits a person from knowingly or intentionally manufacturing, growing, planting, cultivating, harvesting, drying, propagating, or processing marijuana, except as specifically authorized for medical use. The severity of the punishment for a violation of this measure depends upon the number of marijuana plants involved in the violation. In addition, a person convicted of a violation is required to pay all costs associated with any necessary cleanup and disposal.

The measure specifies that certain provisions will be codified in Chapter 453 of Nevada Revised Statutes (NRS) in proximity to similar offenses involving controlled substances; and will be treated in the same manner as those offenses for other purposes in NRS, such as being included in the list of crimes related to racketeering and being included in the definition of "immorality" for the purposes of certain provisions related to educational personnel.

The measure is effective on October 1, 2011.

Roll call on Senate Bill No. 256:

YEAS—21.

NAYS—None.

Senate Bill No. 256 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 257.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 257 reduces from \$5,000 to \$500 the aggregate value of damage used to determine the penalty to be imposed for committing multiple offenses of graffiti. A person who commits the offense of graffiti on any protected site is guilty of a category C felony and will be required to serve at least 10 days in the county jail as a condition of any probation granted.

The court may also order restitution and require an offender to participate in counseling. If the offender is under the age of 18, the court may also order the offender's parent or legal guardian to attend or participate in counseling.

Finally, the measure requires a person convicted of a third offense to perform up to 300 hours of community service for up to a year, including cleaning up, repairing, replacing, or keeping clean of graffiti the damaged property or another specified site.

This bill defines a "protected site" to mean: a site, landmark, monument, building or structure of historical significance pertaining to the history of the settlement of Nevada; any Indian campgrounds, shelters, petroglyphs, pictographs, and burials; or 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.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 257:

YEAS—21.

NAYS—None.

Senate Bill No. 257 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 259.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 259 revises provisions governing the management of a trust by a family trust company or a licensed family trust company. The bill specifies the applicability of the Uniform Prudent Investor Act to a trust managed by such companies.

Senate Bill No. 259 makes specific provision regarding aspects of trust management including liability for an act or decision made in good faith and in reasonable reliance on the terms of a trust instrument, consent agreement, or court order; investment in certain securities; entry into and compliance with a non-judicial settlement agreement; provision of annual reports to an interested person; and transactions with a family affiliate.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 259:

YEAS—20.

NAYS—Breedon.

Senate Bill No. 259 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 260.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 260 sets forth an alternative procedure for creating a local improvement district that includes a renewable energy project or an energy efficiency improvement project. The bill authorizes a governing body to adopt an ordinance creating an improvement district and ordering such a project to be acquired or improved. The governing body may contract with a person to construct or improve a renewable energy project or an energy efficiency project, issue bonds, or otherwise finance the cost of the project and levy assessments on assessable property. The local government is exempt from the provisions in State law setting forth a hearing procedure on the creation of local improvement districts if the governing body issues a provisional order to form the improvement district for a renewable energy project or an energy efficiency improvement project; and the governing body receives written agreement from the owners of assessable property in the proposed local improvement district.

Finally, the bill specifies that the governing body may not include a tract in the assessable property of such a local improvement district unless the owner or owners of the tract apply to the governing body to have the tracts included.

Nevada Revised Statutes 271.099 defines "energy efficiency improvement project" as "the modification of real property or the facilities or equipment on the real property that is designed to reduce the energy consumption of the real property."

The bill is effective on July 1, 2011.

Roll call on Senate Bill No. 260:

YEAS—21.

NAYS—None.

Senate Bill No. 260 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 261.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 261 provides that a fire protection district in Clark County which has been in existence for at least two years may be reorganized and that two or more fire protection districts may be combined and reorganized into one fire protection district. The reorganization or combination of such fire protection districts may be initiated by a petition signed by at least a majority of the owners of property located within the district or districts or by a resolution of the Board of County Commissioners. The bill sets forth the procedure for reorganization, including public notice requirements; public hearing procedures for the Board of County Commissioners in Clark County; the adoption of an ordinance by the Board of County Commissioners; the placement of the reorganization question on the ballot if the Board does not adopt such an ordinance; and the appointment and election of district directors to the reorganized fire protection district.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 261:

YEAS—21.

NAYS—None.

Senate Bill No. 261 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 268.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 268 allows a properly certified or licensed design professional, which includes a registered professional engineer, architect, landscape architect, or land surveyor, to qualify to receive a 5 percent bidder's preference when competing for a public works project. In order to receive the preference, the design professional must submit proof to the appropriate licensing board for the design professional that he or she has paid an excise tax, based on the sum of all wages, of not less than \$1,500 annually for five consecutive years. If this criteria is met, the appropriate licensing board for the design professional shall issue to the design professional a certificate of eligibility for a preference. A design professional may also qualify for the preference if he or she acquires all the assets and liabilities of a viable design professional practice that possesses a certificate of eligibility to receive the preference; and employs in his office or place of business a certified design professional who is a Nevada resident and is regularly working in that office or place of business.

The bill establishes penalties for a design professional who submits false information to the licensing board regarding the payment of the excise taxes and sets forth the timeframe under which a public body may enter into a contract with a design professional who is not a member of a design-build team. Finally, the measure requires the public body or the Nevada Department of Transportation, as the case may be, to publicize certain information regarding the selection of a design-build team that includes design professionals for the public work and transmit such information to the appropriate licensing boards for the design professionals.

Provisions of the bill requiring the various design professional licensing boards to adopt regulations regarding the bidding preferences by October 1, 2011, are effective upon passage and approval. The remainder of the bill is effective on October 1, 2011.

Roll call on Senate Bill No. 268:

YEAS—14.

NAYS—Brower, Cegavske, Gustavson, Halseth, McGinness, Roberson, Settlemeyer—7.

Senate Bill No. 268 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 273.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 273 makes various changes to the practice of osteopathic medicine. The bill authorizes the practice of telemedicine under specified conditions. It authorizes the State Board of Osteopathic Medicine to place any condition, limitation, or restriction on any license issued by the Board if the Board determines such action is necessary to protect the public health, safety, or welfare.

An osteopathic physician who performs an autopsy and who determines that death is the result of an overdose of a controlled substance or dangerous drug shall submit a written report to the Board.

Senate Bill No. 273 makes changes to the requirements for post-graduate medical training required for licensure to practice osteopathic medicine. It also modifies the requirements for licensure by endorsement to practice osteopathic medicine.

The measure requires osteopathic physician assistants to complete annual continuing medical education courses as a condition of license renewal and clarifies that certain statutes relating to osteopathic physicians also apply to osteopathic physician assistants.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 273:

YEAS—21.

NAYS—None.

Senate Bill No. 273 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 277.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 277 prohibits, under certain circumstances, a minor from using an electronic communication device to possess, transmit, or distribute a sexual image of himself, herself, or another minor. If the images transmitted are of himself or herself, the minor is considered a minor in need of supervision for the first offense and a delinquent for a second or subsequent offense. If the images are of another minor, the minor in willful possession of the images is a child in need of supervision, but if the image is transmitted or distributed, the minor commits a delinquent act.

The measure provides an affirmative defense if the minor who possesses the image did not knowingly purchase or solicit it and promptly destroys the image or reports it to a school official or law enforcement.

Finally, Senate Bill No. 277 revises the definition of "cyber-bullying" to clarify that the term includes the use of electronic communication to transmit or distribute a sexual image of a minor.

This measure is effective on July 1, 2011.

Roll call on Senate Bill No. 277:

YEAS—21.

NAYS—None.

Senate Bill No. 277 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 281.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 281 requires the Public Utilities Commission of Nevada (PUCN) to establish the Electric Vehicle Demonstration Program to carry out the legislative intent of registering at least 1,500 electric vehicles in Nevada before January 1, 2016. The Commission shall adopt regulations which, without limitation, establish eligibility qualifications for participants; the type and amount of financial incentives, which must not exceed \$3,000 per participant; requirements for a utility's annual plan for administering the Program; and procedures for inspection and verification of a participant's electric vehicle.

Senate Bill No. 281 provides that a person who owns or operates a charging station that supplies electricity for an electric vehicle is not a public utility and, therefore, is not subject to the jurisdiction of the PUCN.

The PUCN is required to submit a report to the Director of the Legislative Counsel Bureau on or before July 1, 2012, regarding the criteria used to determine the level and amount of incentives; the anticipated benefits of the Program; and any recommendations concerning the Program.

This bill is effective on July 1, 2011.

Senator Denis disclosed that he is an employee of the Public Utility Commission. This will not impact him one way or another. He stated he did not own an electric vehicle but did own a hybrid and would be voting.

Roll call on Senate Bill No. 281:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Senate Bill No. 281 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 284.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 284 prohibits the court from entering a final order modifying the terms of an existing custody or visitation order until after a parent or legal guardian who is a member of the military, and who has sole or joint custody or visitation of a child, returns from deployment.

The court may temporarily modify the order to reasonably accommodate the deployment of a parent. However, the bill creates a rebuttable presumption that the temporary order must revert

to the original order unless it is not in the best interests of the child. If the court temporarily modifies the order, it must ensure the ability of the deployed parent to maintain frequent and continuing contact with the child by reasonably available means.

The measure provides that deployment or the potential for future deployment does not constitute a substantial change in circumstances sufficient to warrant a permanent modification of an order, and authorizes delegation of the deployed parent's visitation rights to a family member under certain circumstances.

Finally, the court is required to hold an expedited hearing or allow the parent to present testimony and evidence by electronic means if the parent's ability to appear in person is materially affected by his or her current or pending deployment.

The measure is effective on October 1, 2011.

Roll call on Senate Bill No. 284:

YEAS—21.

NAYS—None.

Senate Bill No. 284 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 288.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 288 includes Indian tribes and tribal organizations in the Waterpower Energy Systems Demonstration Program, and extends the prospective expiration of the program until June 30, 2016. It also expands the capacity of the program to 5 megawatts. At least 1 megawatt of that amount must be allotted to systems with a capacity of 100 kilowatts or less. Rebates under the program must not exceed 50 percent of the total cost of a system.

The bill amends the net metering program to accommodate certain systems serving contiguous property, including property that is separated by a street, alley, creek, river, or certain rights-of-way.

This bill is effective upon passage and approval for the purpose of extending the prospective expiration of the Waterpower Energy Systems Demonstration Program, and on July 1, 2011, for all other purposes.

Roll call on Senate Bill No. 288:

YEAS—21.

NAYS—None.

Senate Bill No. 288 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 294.

Bill read third time.

Remarks by Senators Schneider and Leslie.

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

SENATOR SCHNEIDER:

Senate Bill No. 294 defines a "medical assistant" and authorizes a medical assistant who is supervised by a physician or physician assistant to possess and administer a dangerous drug. A

veterinary assistant may also possess and administer a dangerous drug at the direction of a supervising veterinarian.

The bill provides that a person, other than a physician, shall not inject a patient with any chemotherapeutic agent classified as a dangerous drug except under certain specific circumstances.

The Board of Medical Examiners and the State Board of Osteopathic Medicine may adopt regulations governing the supervision of a medical assistant, including without limitation, regulations that prescribe limitations on the possession and administration of a dangerous drug by a medical assistant. Failure to supervise adequately a medical assistant pursuant to the regulations adopted by the Boards constitutes grounds for disciplinary action.

This bill is effective upon passage and approval for the purpose of adopting regulations, and on January 1, 2012, for all other purposes.

SENATOR LESLIE:

Thank you, Mr. President. I would like to thank my colleague, Senator Cegavske, for all of her work on the bill. I did not do anything. She did all of the work, but still put my name on it.

Roll call on Senate Bill No. 294:

YEAS—21.

NAYS—None.

Senate Bill No. 294 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 304.

Bill read third time.

Remarks by Senator Parks.

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

Senate Bill No. 304 proposes revisions to the charters of Carson City, Henderson, Reno, and Sparks. Existing charters require members of the governing bodies to be selected by ward in the primary elections, followed by city-wide vote in the general election. Contingent upon voter approval, a candidate will be voted upon in a primary or general election only by the voters of the ward. A sixth ward is created for Reno, eliminating the at-large council member. Each city governing body must place the question of charter revision on the November 6, 2012, ballot.

The bill is effective upon passage and approval. Revisions to charters become effective on July 1, 2013, only if approved by a majority of the voters.

Roll call on Senate Bill No. 304:

YEAS—21.

NAYS—None.

Senate Bill No. 304 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 309.

Bill read third time.

Remarks by Senator Manendo.

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

Senate Bill No. 309 authorizes a person to remove from his or her property an animal for which the person has, by contract, provided care or shelter. After appropriate notification and under specific circumstances, the animal is deemed to be abandoned and the person may sell the animal; give the animal to a society for the prevention of cruelty to animals; return the animal to

the owner at the owner's present address; transfer the animal to another facility; or bring a civil action to require the owner to remove the animal.

If the owner fails to remove the animal, the person providing care and shelter for the animal may charge and collect reasonable and actual costs incurred in removing the animal.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 309:

YEAS—21.

NAYS—None.

Senate Bill No. 309 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 318.

Bill read third time.

Remarks by Senators Denis, Settelmeyer, Parks, Kieckhefer, Brower and Cegavske.

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

SENATOR DENIS:

Senate Bill No.318 provides that new school buses purchased after January 1, 2014, must meet certain fire safety standards concerning the flammability of occupant seat material and for plastic components within the engine compartment.

According to testimony, most of the "thermal incidents" involving Nevada school buses occurred within the engine compartment due to leaking fuel lines. The plastic components covering electronic devices within the engine compartment will now be required to meet Underwriter Laboratory standards, removing that as an ignition source for a fire.

The bill is effective on July 1, 2011.

SENATOR SETTELMAYER:

I appreciate the bill changing. I think it is no longer requiring a retrofit of seats, because that was about \$500 per seat. Now it only applies to when you purchase new equipment. Then you do not have to retrofit. What will the cost be to the school district when buying a new bus?

SENATOR PARKS:

Thank you, Mr. President. The application for this would be for buses that would be acquired after the date January 1, 2014. If put in service after that date, they would have to be constructed with materials that have a flammability resistance. The cost is minimal. My experience goes back 20 years when purchasing transit buses that required fabric seating. The cost difference was minimum. Less than a few dollars per bus overall.

SENATOR KIECKHEFER:

I appreciate the issue of trying to keep children safe on the bus. Do we require them to wear seat belts on the school bus?

SENATOR PARKS:

No.

SENATOR BROWER:

I want to disclose that a member of my law firm testified in support of this bill. After conferring with legal counsel I do not have a conflict. I will vote on this bill.

SENATOR CEGAVSKE:

Thank you, Mr. President. I have been concerned about this. It is another unfunded mandate for the school districts. They did not present a fiscal note to us in the hearing. It is something that

is different. The school districts have a national standard for their buses. This puts an additional mandate on them, not only for the seating that is non-flammable material, but it also requires that there is plastic under the hood. It is a new set of requirements that would go under the hood for the engine. They stated that in the State of Nevada, Clark County had none to report. There were a few engine fires in other parts of the State. I still have concerns that this is an unfunded mandate for the school districts. They all agreed on that. There was some confusion in this, but they still say it is an unfunded mandate.

SENATOR DENIS:

In Committee, one of the things we found out was that there were ten thermal incidents in the State and all of them were in the engine compartments. Currently there is no standard for those. This would put in place a standard for the plastic components that are under the hood. That is where the issues are when there is a fire on a school bus. That would be a minimal cost.

Roll call on Senate Bill No. 318:

YEAS—19.

NAYS—Cegavske, McGinness—2.

Senate Bill No. 318 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 361.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 361 authorizes a person to apply to the State Engineer for the issuance of a temporary permit to appropriate water to establish fire-resistant vegetative cover in an area that has been burned by a wildfire or to prevent or reduce the impact of a wildfire. Unless extended by the State Engineer, the duration of such a temporary permit is limited to one year. The bill exempts such an application from several requirements in existing law for applications for permits concerning water rights, including publication of notice of the application in a newspaper and authorization for the filing of protests against the granting of the application.

Finally, Senate Bill No. 361 requires the State Forester Firewarden, upon the request of the State Engineer, to review the plan for establishing the vegetative cover that is required to be submitted by the applicant for the temporary permit.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 361:

YEAS—21.

NAYS—None.

Senate Bill No. 361 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 376.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 376 increases from a misdemeanor to a category E felony the penalty for anyone who knowingly, willfully, and without authorization, interferes with the use of a computer, system, or network; or uses or accesses a computer, system, network, telecommunications device, telecommunications service, or information service.

This measure adds as a category C felony the act of attempting to cause a financial loss to the victim in excess of \$500, if that act involved such technology crimes.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 376:

YEAS—21.

NAYS—None.

Senate Bill No. 376 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 392.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 392 creates the Nevada Advisory Committee on Intergovernmental Relations as a statutory committee consisting of 13 members representing the Nevada Legislature, local governments in Nevada, and the Executive Branch of the State of Nevada.

Senate Bill 392 was a recommendation of the 2009-2010 Legislative Commission's Committee to Study Powers Delegated to Local Governments, which received suggestions and heard testimony from the Interim Technical Advisory Committee on Intergovernmental Relations. The Committee created by this bill shall serve as a forum for the discussion and resolution of intergovernmental challenges and is charged with engaging in numerous activities and conducting studies relating to: (1) local government structure; (2) powers of local government, including various functions and fiscal powers; (3) State and local government relationships; (4) the allocation of resources at the State and local levels; and (5) making recommendations for legislation made to the Chairs of the Senate and Assembly Committees on Government Affairs. The Nevada Advisory Committee on Intergovernmental Relations is also required to prepare and submit to the Nevada Legislature, on or before July 1 of each year, a report setting forth the activities and findings of the Committee during the previous year. Administrative support for the Committee shall be provided by the Nevada Association of Counties and the Nevada League of Cities and Municipalities.

Provisions relating to the appointment of members to the Committee are effective upon passage and approval. The remainder of the bill is effective on July 1, 2011. The measure expires by limitation on June 30, 2015.

Roll call on Senate Bill No. 392:

YEAS—19.

NAYS—Halseth, Kieckhefer—2.

Senate Bill No. 392 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 393.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 393 provides that when an unincorporated town in Clark County annexes territory, the territory annexed along with its inhabitants and property are subject, beginning in the fiscal year following the effective date of annexation, to all debts, laws, ordinances, and regulations in force in the annexing town. The territory and its inhabitants are entitled to the same privileges and benefits as other parts of the annexing unincorporated town.

Testimony on Senate Bill No. 393 indicated that under existing law, when a city annexes territory, that territory and its inhabitants and property become subject to the debts, laws, ordinances, and regulations of the city and are entitled to the same privileges and benefits as other parts of the city. Senate Bill No. 393 establishes the same provisions for an unincorporated town that annexes territory in a county with a population of 700,000 or more.

The bill is effective on July 1, 2011.

Roll call on Senate Bill No. 393:

YEAS—21.

NAYS—None.

Senate Bill No. 393 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 402.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 402 revises provisions concerning loans secured by deeds of trust. Specifically, the measure amends a statutory covenant that may be adopted by reference in the deed of trust to allow the parties to either pay, in connection with a trustee's sale, reasonable counsel fees and actual costs incurred or counsel fees in an amount equal to a specified percentage of the property secured by the deed of trust.

The bill also describes methods of specifying assumption fees and requires a foreclosure sale of commercial property to be conducted at the location specified in the notice of sale.

Finally, Senate Bill No. 402 revises provisions limiting the amount of certain secured interests included in the term "indebtedness" for the purpose of foreclosure sales and deficiency judgments. It also concerns impound accounts for the payment of certain obligations.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 402:

YEAS—21.

NAYS—None.

Senate Bill No. 402 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 403.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 403 revises the information that must be provided in a resale package by a unit's owner to a purchaser. Specifically, the statement concerning assessments must come from the association and must include information on any unpaid assessment such as management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees, and attorney's fees due from the seller. The statement remains effective for at least 15 working days, and the association may deliver a replacement statement if it becomes aware of an error before completion of the resale.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 403:

YEAS—21.

NAYS—None.

Senate Bill No. 403 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 406.

Bill read third time.

Remarks by Senator Breedon.

Senator Breedon requested that her remarks be entered in the Journal.

Senate Bill No. 406 requires the Department of Motor Vehicles to waive two types of fees owed by military personnel in the event the service member's driver's license renewal or vehicle registration is late due to the member being deployed. Those two fees are the late fee charged by the Department for both overdue vehicle registrations and license renewals and a penalty on the late payment of the governmental services tax for vehicle registrations only.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 406:

YEAS—21.

NAYS—None.

Senate Bill No. 406 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 411.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 411 provides for the certification and regulation of a nursing assistant as a medication aide-certified by the State Board of Nursing. The bill prescribes the requirements for certification and the duties a medication aide-certified may perform.

The Board shall designate by regulation the types of medical facilities that may employ a medication aide-certified. A medication aid-certified may possess and administer certain drugs and medicines at a designated facility under the supervision of an advanced practitioner of nursing or a registered nurse, in accordance with protocols developed by the Board.

This bill is effective upon passage and approval for the purpose of adopting regulations, and on October 1, 2011, for all other purposes.

Roll call on Senate Bill No. 411:

YEAS—20.

NAYS—Leslie.

Senate Bill No. 411 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 417.

Bill read third time.

Remarks by Senator Manendo.

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

Senate Bill No. 417 requires regulations concerning recycling containers that are adopted by the State Environmental Commission and the Division of Environmental Protection in the State Department of Conservation and Natural Resources to include provisions for the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.

This bill is effective upon passage and approval for purposes of adopting regulations, and on October 1, 2011, for all other purposes.

Roll call on Senate Bill No. 417:

YEAS—21.

NAYS—None.

Senate Bill No. 417 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 432.

Bill read third time.

Remarks by Senators Leslie, Roberson, Halseth, Hardy and Schneider.

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

SENATOR LESLIE:

Senate Bill No. 432 authorizes the Regional Transportation Commission (RTC) in Clark and Washoe Counties to issue revenue bonds and other revenue securities to fund the construction and maintenance of road projects, public transit systems and projects to improve air quality, if the RTC has executed an interlocal agreement with the county.

The bill removes certain requirements for the cessation of the sales tax imposed for infrastructure projects in Clark County and also removes the prohibition on the issuance of bonds, based on a specified date or the amount of proceeds collected from the sales tax.

The bill also extends the period of time for which general obligation bonds may be issued for a water facility or a wastewater facility, from 30 years to 40 years.

SENATOR ROBERSON:

Thank you, Mr. President. Sections 8 through 14 of this bill refer to the Southern Nevada Water Authority. Section 8 removes the sunset date and leaves the imposition of the tax open ended. While the voters approved the 0.25 percent sales tax in 1998, the question did not contain the sunset, the explanation did contain the sunset. I will vote "no" on this bill.

SENATOR HALSETH:

I also rise in opposition to Senate Bill No. 432. In addition to the concerns of my colleague from Clark County District No. 5, section 10 extends the potential life of the GO bonds from 30 to 40 years. There will be a substantial increase in interest that will have to be paid.

SENATOR HARDY:

I will vote in favor of this bill. It continues a current tax opportunity for bonding. I look at this through my "jobs" glasses and recognizing there is a water issue that is critical for my district and all of the projects they need to have, as well as this place called Clark County still needs a drink of water.

SENATOR SCHNEIDER:

Thank you, Mr. President. This is about water for the future. Yes, it costs money. It is not free to build a straw into the lake as deep as they want to go. You cannot put this off. We had a good water year this year, but we have had ten bad years. Next year, we could start 50 years of drought. We do not know, but we must be ready. It is critical for Las Vegas that we have this

straw. I stand in support and urge all Clark County people to keep an open mind on this unless they want to bathe in Evian water.

Roll call on Senate Bill No. 432:

YEAS—14.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, Roberson, Settelmeyer—7.

Senate Bill No. 432 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

SENATOR HORSFORD:

I find the vote we just took fascinating because the section dealing with the RTC is the exact same bill we passed, S.B. 5 of the Twenty-sixth Special Session, unanimously by this body. It was good enough then, but it is not good enough now. People are losing their jobs. We talk about economic development and growth and then southern Nevada members vote against their own constituents' interest. I do not understand it.

GENERAL FILE AND THIRD READING

Senate Bill No. 488.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 488 provides that the Public Utilities Commission of Nevada shall require a utility that supplies electricity in this State to include certain provisions relating to transmission facilities in its triennial resource plan. The plan must include plans for transmission facilities to support the construction of renewable energy facilities, without regard to the location of the purchaser of energy from such renewable energy facilities; provisions to serve the transportation needs of the utility; and provisions to serve any renewable energy facility that delivers energy outside the service territory of the utility and that requests interconnection with the utility.

The plan may propose the sighting, permitting, or construction of a transmission facility or corridor in phases. A utility may recover reasonable expenses for any sighting, development, and permitting of a corridor that is conducted without inclusion in the statutorily required plan.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 488:

YEAS—21.

NAYS—None.

Senate Bill No. 488 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 495.

Bill read third time.

Remarks by Senator Leslie.

Senator Leslie requested that her remarks be entered in the Journal.

Senate Bill No. 495 amends the Nevada Taxpayers Bill of Rights to establish that the sales and use tax administered throughout the counties of this State must be uniform and equal within each county so that all areas of each county, and all taxpayers within a county, are subject to an equal rate of sales and use tax.

The bill also establishes that a special district for which a sales and use tax is imposed may not be created in a portion of a county if it would cause the rate of sales and use tax in that portion of the county to be higher than other portions of the county.

Pursuant to Section 2 of Article 19 of the *Nevada Constitution*, the provisions of Senate Bill No. 495 provide for a competing measure to Initiative Petition No. 1 to be placed on the ballot at the general election held on November 6, 2012.

Roll call on Senate Bill No. 495:

YEAS—21.

NAYS—None.

Senate Bill No. 495 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 8.

Resolution read third time.

Remarks by Senator Manendo.

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

Senate Joint Resolution No. 8 notes that Nevada has vast deposits of minerals located throughout the State and that mining is an important industry in the State. The resolution observes that mining exploration and activities occur entirely or partially on federal land, and permits must be secured for those activities from the Bureau of Land Management and the United States Forest Service. The resolution urges Congress to direct various federal government agencies to expedite the permitting process for mineral exploration and the development of mines in this State.

This resolution is effective upon passage.

Roll call on Senate Joint Resolution No. 8:

YEAS—20.

NAYS—Leslie.

Senate Joint Resolution No. 8 having received a constitutional majority,
Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

Assembly Bill No. 30.

Bill read third time.

Remarks by Senator Breeden.

Senator Breeden requested that her remarks be entered in the Journal.

Assembly Bill No. 30 expands the list of divisions or offices within the Departments of Motor Vehicles and Public Safety that may be authorized to obtain permits from the Department of Motor Vehicles to own and operate authorized emergency vehicles.

This bill expressly authorizes the issuance of such permits for vehicles owned and operated by the Capitol Police Division, the Investigation Division, the State Fire Marshal Division, the Training Division, the Office of the Director of the Department of Public Safety, and enforcement vehicles for emissions and special fuel programs in the Department of Motor Vehicles.

The bill also transfers from the Department of Motor Vehicles to the Department of Public Safety the statutory authority to establish standards for certain equipment for emergency vehicles and to issue permits for those vehicles.

This bill is effective upon passage and approval.

Roll call on Assembly Bill No. 30:

YEAS—21.

NAYS—None.

Assembly Bill No. 30 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 144.

Bill read third time.

Remarks by Senator Kihuen.

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

Assembly Bill No. 144 adds five criteria that must be met to qualify for the 5 percent bidding preference on State and local public works projects. The applicant must submit a signed affidavit certifying that the criteria will be met for the duration of the project. The additional criteria are: at least 50 percent of the workers must have a Nevada driver's license or identification card; vehicles must be registered in Nevada or be partially apportioned to Nevada; at least 50 percent of the design professionals working on the project must have a Nevada driver's license or identification card; at least 25 percent of the suppliers of the materials used must be located in Nevada; and certain payroll records must be maintained and available in Nevada. The bill also requires the contractor to maintain, for all workers on the project, a list of the driver's license and identification card numbers.

The public works contract must contain the five criteria and provide that failure to comply with the criteria constitutes a material breach entitling the public body to liquidated damages equal to 10 percent of the contract's cost. The contract must also contain a provision to apportion the liability for damages for a material breach between the contractor and subcontractor in proportion to each party's liability for the breach. A contract not in compliance with this bill shall be void. A contractor who receives a preference and breaches the contract shall be penalized as follows: if the cost of the contract exceeds \$5 million, the contractor shall lose the preference certification for five years; or if the contract exceeds \$25 million, the contractor shall be barred from bidding on public works projects for one year.

A person may file a written objection with the public body to a proposed or awarded contract, along with supporting proof, alleging that the criteria are not being met. The public body must review the objection and supporting proof and determine whether the criteria are being met. If the public body determines the criteria are not being met, the contract may be awarded to another bidder or the public body may seek liquidated damages. Breaches shall be reported to the State Contractors' Board and the information shall be retained for at least six years.

The bill is effective upon passage and approval.

Roll call on Assembly Bill No. 144:

YEAS—21.

NAYS—None.

Assembly Bill No. 144 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 22, 2011

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

Mark Krmpotic
Fiscal Analysis Division

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 220; Senate Resolution No. 4.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to the following students from the Marvin Moss Elementary School: Naomi Alvarez, Jessenia Araiza, Ana Ayala, Jose Barrera, Ty Carmack, Taesha Crain, Tyler Fairchild, Savannah Franz, Ana Gil, Andrew Gorum, Fay Guerrero, Sarah Kerney, Sam Legott, Bryan Oaxaca, Kaitlin Maher, Ibeth Molina, Adam Moore, Aylianna Partida, Nathaniel Pascual, Rueben Ruiz, Alexia Sanchez, Kameron Soubiea, Natasha Spalka, Heather Velazquez, Monica Villa, Jovannah Lefler-Beck, Kendyl Perkins, Kenia Aguirre, Taylor Anderson, Stephanie Baldwin, Morgan Bennett, Alexander Contreras Ortega, Garrett Davidson, Liberty Fleming, Alejandre Garcia, Brennan Gilmore, Trey Harry, Meredith Hoppe, Mikayla Hunt, Caitlyn Jones, Kendall Kantor, Aidan Keppel, Daniel Makoutz, Javonna Malizia, Moises Martinez Camarena, Coard McKim, Thomas Obacka, Manmit Parmar, Daniela Serratos Segura, Megan Sewell, Amy Jo Sitkoff, Jakob Sprague, Darius Vandyke, Dakotah Walters, Justin Wolcott, Hannah Anderson, Audrey Bautista, Gage Bennett, Teagan Ciesynski, Trinton Cook, Reece Davis, Tanner Dimmitt, Ryan Durbin, Sadi Floyd, Ashley Haynes, Autumn Hicks, Nicholas Howe, Alesah Jim, Kevin Looc, Konstantina Mason, Ronalisa Nena, Shelby Petersen, Tyler Scott, Carolina Serrano, Donte Smith, Caleb Springmeyer, Kye Steiner, Trinity Sublett, Monica Valdez, Alyssa Wellesley, Taeshaun Crain, Christopher Mason and Michaela Gamboa.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to Ella Grace Horsford.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Bill Brady.

Senator Horsford moved that the Senate adjourn until Monday, April 25, 2011, at 10 a.m.

Motion carried.

Senate adjourned at 6:12 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate