

THE ONE HUNDRED AND THIRTEENTH DAY

CARSON CITY (Monday), May 30, 2011

Senate called to order at 11:21 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer and performance by Michael Gott.

There is one infinite Power and Presence—God.

It is in God that we live, move and have our being.

God, we come before You today and we call upon Your wisdom, grace and love to guide these, our elected leaders in this Session.

As these committed men and women work towards a better future for ourselves and for our children, remind us God that we are all in this together.

One people. Let us work today with one purpose.

Thank You, God.

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener 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 Legislative Operations and Elections, to which were referred Assembly Bills Nos. 452, 473, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Transportation, to which was referred Assembly Bill No. 351, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHIRLEY A. BREEDEN, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Legislative Operations and Elections:

Senate Resolution No. 5—Designating certain members of the Senate as regular and alternate members of the Legislative Commission for the 2011-2013 biennium.

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

Motion carried.

Senator Wiener moved that all necessary rules be suspended, and that all bills and joint resolutions just reported out of committee be immediately placed on the appropriate reading files, time permitting, this legislative day.

Remarks by Senator McGinness.

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

Thank you, Mr. President. I understand the necessity for doing this, but what does "necessary rules" mean?

A conference was held at the Secretary's Desk and the question was answered.

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 11:29 a.m.

SENATE IN SESSION

At 12:27 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Assembly Bill No. 202.

Bill read second time and ordered to third reading.

Assembly Bill No. 351.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 737.

"SUMMARY—Revises provisions governing certain motor carriers. (BDR 58-1049)"

"AN ACT relating to motor carriers; authorizing operators of taxicabs and operators of limousines to accept credit cards and debit cards for payment of rates, fares and charges; authorizing the prescribing of maximum fees that may be charged to customers of taxicabs and limousines for the convenience of payment by a credit card or debit card; prohibiting issuers of credit cards and debit cards and certain other persons from prohibiting the collection of the convenience fees; **requiring the Taxicab Authority to compile a report for the Legislature concerning the costs of purchasing, installing and maintaining equipment to accept such payments; requiring a portion of the fee paid in certain counties to be used for certain transportation services;** providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Nevada Transportation Authority regulates common motor carriers of passengers, which include limousines and, in counties with a population of less than 400,000 (currently all counties other than Clark County), taxicabs. (NRS 706.166) The Taxicab Authority regulates taxicabs in counties with a population of 400,000 or more (currently Clark County). (NRS 706.8818)

Sections 2 and 3 of this bill authorize taxicab and limousine operators to accept payment by a credit card or debit card. **Section 2** authorizes the Nevada Transportation Authority to prescribe by regulation ~~for order~~ the maximum fees that a taxicab motor carrier or limousine operator within its jurisdiction may charge for the convenience of paying by using a credit card or debit card. **Section 3** authorizes the Taxicab Authority to prescribe by regulation ~~for order~~ the maximum fees that a certificate holder in a county whose population is 400,000 or more may charge for the convenience of paying by using a credit card or debit card. **Sections 2 and 3** also set forth the manner in which the amount of the fee that may be charged will be determined and prohibit an issuer of a credit card or debit card or certain other persons who facilitate the acceptance of a credit card or debit card from prohibiting the collection by a taxicab or limousine operator of the convenience fee.

Section 11 of this bill requires each taxicab motor carrier in a county whose population is 700,000 or more (currently Clark County) to transmit a report to the Taxicab Authority on or before January 1, 2012, July 1, 2012, January 1, 2013, and July 1, 2013, which sets out the actual costs that the taxicab motor carrier incurred during the immediately preceding 6 months to purchase, install and maintain the equipment used to accept credit cards or debit cards. Section 11 requires the Taxicab Authority to compile the information contained in the reports within 30 days of receipt and transmit the information to the Director of the Legislative Counsel Bureau for distribution to the Legislature.

Section 12 of this bill requires each taxicab motor carrier in a county whose population is 700,000 or more (currently Clark County) that charges a fee to customers for using a credit card or debit card to transmit a portion of the fee so collected to the Taxicab Authority on or before January 1, 2012, July 1, 2012, and January 1, 2103. The Taxicab Authority is required to determine the amount to be transmitted on a fair and equitable basis to ensure that the Taxicab Authority is able to transmit \$400,000 on or before January 15, 2012, July 15, 2012, and January 15, 2013, to the Aging and Disability Services Division of the Department of Health and Human Services for expenditure on transportation services in Clark County.

Section 13 of this bill requires the adoption of any regulations by the Taxicab Authority and the Nevada Transportation Authority necessary to implement the bill by October 1, 2011.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *A taxicab motor carrier or an operator of a limousine may enter into a contract with an issuer of credit cards and debit cards to provide for the acceptance of credit cards or debit cards by the taxicab*

motor carrier or the operator of a limousine for the payment of rates, fares and charges owed to the taxicab motor carrier or the operator of a limousine.

2. The Authority may prescribe by regulation ~~for order~~ the maximum fee that a taxicab motor carrier or an operator of a limousine may charge a customer for the convenience of using a credit card or debit card to make payment to the taxicab motor carrier or the operator of a limousine. ~~In prescribing such fees, the~~ The Authority ~~may consider the expenses incurred by~~ shall establish the fee in an amount that allows the taxicab motor carrier or the operator of a limousine to recover the costs incurred in accepting payment by a credit card or debit card . ~~+~~ Only the costs associated with accepting payment by a credit card or debit card may be included in establishing the amount of the fee, including, without limitation:

- (a) Costs of required equipment and its installation;
- (b) Administrative costs of processing credit card or debit card transactions; and
- (c) Fees paid to issuers of credit cards or debit cards.

3. An issuer shall not, by contract or otherwise:

- (a) Prohibit a taxicab motor carrier or an operator of a limousine from charging and collecting a fee authorized pursuant to subsection 2; or
- (b) Require a taxicab motor carrier or an operator of a limousine to waive the right to charge and collect a fee authorized pursuant to subsection 2.

4. As used in this section, "issuer" means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:

- (a) Issues a credit card or debit card; or
- (b) Enters into a contract with a taxicab motor carrier, an operator of a limousine or other person to enable or facilitate the acceptance of a credit card or debit card.

Sec. 3. 1. A certificate holder may enter into a contract with an issuer of credit cards and debit cards to provide for the acceptance of credit cards or debit cards by the certificate holder for the payment of rates, fares and charges owed to the certificate holder.

2. The Taxicab Authority may prescribe by regulation ~~for order~~ the maximum fee that a certificate holder may charge a customer for the convenience of using a credit card or debit card to make payment to the certificate holder. ~~In prescribing such fees, the~~ The Taxicab Authority ~~may consider the expenses incurred by~~ shall establish the fee in an amount that allows the certificate holder to recover the costs incurred in accepting payment by a credit card or debit card . ~~+~~ Only the costs associated with accepting payment by a credit card or debit card may be included in establishing the amount of the fee, including, without limitation:

(a) *Costs of required equipment and its installation;*
 (b) *Administrative costs of processing credit card or debit card transactions; and*

(c) *Fees paid to issuers of credit cards or debit cards.*

3. *An issuer shall not, by contract or otherwise:*

(a) *Prohibit a certificate holder from charging and collecting a fee authorized pursuant to subsection 2; or*

(b) *Require a certificate holder to waive the right to charge and collect a fee authorized pursuant to subsection 2.*

4. *As used in this section, "issuer" means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:*

(a) *Issues a credit card or debit card; or*

(b) *Enters into a contract with a certificate holder or other person to enable or facilitate the acceptance of a credit card or debit card.*

Sec. 4. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ***and section 2 of this act***, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, ***and section 2 of this act*** apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, ***and section 2 of this act*** or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~††~~, ***and section 2 of this act***;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~††~~, ***and section 2 of this act***;

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~††~~, ***and section 2 of this act***;

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

↪ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

↪ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than \$500 nor more than \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 6. NRS 706.881 is hereby amended to read as follows:

706.881 1. The provisions of NRS 706.8811 to 706.885, inclusive, **and section 3 of this act**, apply to any county:

(a) Whose population is 400,000 or more; or

(b) For whom regulation by the Taxicab Authority is not required, if the board of county commissioners of the county has enacted an ordinance approving the inclusion of the county within the jurisdiction of the Taxicab Authority.

2. Upon receipt of a certified copy of such an ordinance from a county for whom regulation by the Taxicab Authority is not required, the Taxicab Authority shall exercise its regulatory authority pursuant to NRS 706.8811 to 706.885, inclusive, **and section 3 of this act**, within that county.

3. Within any such county, the provisions of this chapter which confer regulatory authority over taxicab motor carriers upon the Nevada Transportation Authority do not apply.

Sec. 7. NRS 706.8811 is hereby amended to read as follows:

706.8811 As used in NRS 706.881 to 706.885, inclusive, **and section 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 706.8812 to 706.8817, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 706.885 is hereby amended to read as follows:

706.885 1. Any person who knowingly makes or causes to be made, either directly or indirectly, a false statement on an application, account or other statement required by the Taxicab Authority or the Administrator or who violates any of the provisions of NRS 706.881 to 706.885, inclusive, **and section 3 of this act** is guilty of a misdemeanor.

2. The Taxicab Authority or Administrator may at any time, for good cause shown and upon at least 5 days' notice to the grantee of any certificate or driver's permit, and after a hearing unless waived by the grantee, penalize the grantee of a certificate to a maximum amount of \$15,000 or penalize the grantee of a driver's permit to a maximum amount of \$500 or suspend or revoke the certificate or driver's permit granted by the Taxicab Authority or Administrator, respectively, for:

(a) Any violation of any provision of NRS 706.881 to 706.885, inclusive, **and section 3 of this act** or any regulation of the Taxicab Authority or Administrator.

(b) Knowingly permitting or requiring any employee to violate any provision of NRS 706.881 to 706.885, inclusive, **and section 3 of this act** or any regulation of the Taxicab Authority or Administrator.

➡ If a penalty is imposed on the grantee of a certificate pursuant to this section, the Taxicab Authority or Administrator may require the grantee to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. When a driver or certificate holder fails to appear at the time and place stated in the notice for the hearing, the Administrator shall enter a finding of default. Upon a finding of default, the Administrator may suspend or revoke the license, permit or certificate of the person who failed to appear and impose the penalties provided in this chapter. For good cause shown, the Administrator may set aside a finding of default and proceed with the hearing.

4. Any person who operates or permits a taxicab to be operated in passenger service without a certificate of public convenience and necessity issued pursuant to NRS 706.8827, is guilty of a gross misdemeanor. If a law enforcement officer witnesses a violation of this subsection, the law enforcement officer may cause the vehicle to be towed immediately from the scene.

5. The conviction of a person pursuant to subsection 1 does not bar the Taxicab Authority or Administrator from suspending or revoking any certificate, permit or license of the person convicted. The imposition of a fine or suspension or revocation of any certificate, permit or license by the Taxicab Authority or Administrator does not operate as a defense in any proceeding brought under subsection 1.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. 1. Except as otherwise provided by subsection 2, on or before January 1, 2012, July 1, 2012, January 1, 2013, and July 1, 2013, each taxicab motor carrier in a county whose population is 700,000 or more shall transmit a report to the Taxicab Authority which sets out the actual costs that the taxicab motor carrier incurred during the immediately preceding 6 months to purchase, install and maintain the equipment used to provide for the acceptance of credit cards or debit cards for the payment of rates, fares and other charges.

2. The first report transmitted pursuant to this section must include the information for all months preceding January 1, 2012, in which any expenses were incurred to purchase, install and maintain the equipment used to provide for the acceptance of credit cards or debit cards for the payment of rates, fares and other charges.

3. Within 30 days after receipt of the reports made pursuant to this section, the Taxicab Authority shall compile the information contained in the reports and transmit that information to the Director of the Legislative Counsel Bureau for distribution to the Legislature.

Sec. 12. The Taxicab Authority shall require all taxicab motor carriers in a county whose population is 700,000 or more who charge a customer a fee for the convenience of using a credit card or debit card for rates, fares or other charges to transmit a portion of those fees to the Authority on or before January 1, 2012, July 1, 2012, and January 1, 2013. The Taxicab Authority shall determine the amount of the fees required to be transmitted on a fair and equitable basis which

ensures that the amount necessary is collected from each entity to enable the Taxicab Authority to transmit \$400,000 on or before January 15, 2012, July 15, 2012, and January 15, 2013, to the Aging and Disability Services Division of the Department of Health and Human Services. The entire amount of the \$1,200,000 transmitted to the Division must be expended on transportation services in Clark County provided through the Senior Ride Program and the Independent Living Grants Program.

Sec. 13. The Taxicab Authority and the Nevada Transportation Authority shall each adopt any regulations necessary to implement the provisions of this act on or before October 1, 2011.

Sec. 14. This act becomes effective upon passage and approval.

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. 737 to Assembly Bill No. 351 requires the Taxicab Authority to compile a report for the Legislature concerning the costs incurred by a taxicab or limousine operator in purchasing, installing, and maintaining equipment to accept credit and debit card payments. It specifies that in determining the amount a taxicab or limousine operator may charge for using a credit or debit card, the Taxicab Authority may only take into consideration the costs associated with acceptance.

The amendment also requires that a portion of the fee charged by a taxicab or limousine operator for the acceptance of a credit or debit card be transmitted to the Taxicab Authority for purposes of supporting the Senior Ride and Independent Living Grants Programs.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 452.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 834.

"SUMMARY—Revises provisions relating to governmental administration. (BDR 24-1136)"

"AN ACT relating to governmental administration; requiring the electronic filing of certain campaign contribution and expenditure reports and statements of financial disclosure; amending the deadlines for filing certain campaign contribution and expenditure reports; requiring candidates to report certain contributions and expenditures in the aggregate on campaign contribution and expenditure reports; requiring candidates to report the disposal of certain unspent campaign contributions in the aggregate on campaign contribution and expenditure reports; ~~prohibiting certain former public officers from receiving compensation or other consideration to lobby for 2 years after leaving office; increasing the "cooling off" period for former members of the Public Utilities Commission of Nevada, the State Gaming Control Board and the Nevada Gaming Commission to lobby on behalf of~~

~~certain regulated businesses and industries,]~~ making various other changes relating to campaign finance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2-20 of this bill provide that, except under certain circumstances, campaign contribution and expenditure reports related to candidates for state, county, city and district offices must be filed electronically with the Secretary of State. **Sections 4, 7-11 and 16** also revise the deadlines for filing such reports.

Existing law requires a candidate to report on his or her campaign contribution and expenditure report: (1) each campaign contribution in excess of \$100 received during the reporting period and contributions received during the period from a contributor which cumulatively exceed \$100; (2) each campaign expense incurred, or expenditure made, in excess of \$100 during the reporting period; and (3) any unspent campaign contribution that is disposed of during the reporting period in excess of \$100. (NRS 294A.120, 294A.125, 294A.200) **Sections 4, 5 and 9** of this bill require candidates to report, in the aggregate, contributions, expenses, expenditures or amounts of unspent campaign contributions disposed of which are less than \$100.

Existing law requires a candidate, person, committee, political party, group of persons or business entity to sign all campaign contribution and expenditure reports under penalty of perjury. (NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283, 294A.286) Sections 2-15, 18 and 23 of this bill authorize a person signing such a report the alternative option of signing under an oath to God but provides that a person who signs a report under an oath to God is subject to the same penalties as if he or she signed the report under penalty of perjury.

Section 18 of this bill requires the Secretary of State to design a form for each campaign contribution and expenditure report rather than requiring the design of a single form for all campaign contribution and expenditure reports in order to accommodate the new electronic filing requirements.

Sections 23-26 and 28-33 of this bill provide that, except under certain circumstances, appointed and elected public officers must file statements of financial disclosure electronically with the Secretary of State rather than the Commission on Ethics.

~~[Under existing law, former members of the Public Utilities Commission of Nevada, the State Gaming Control Board and the Nevada Gaming Commission must observe a 1 year "cooling off" period prior to appearing before the Public Utilities Commission of Nevada, the State Gaming Control Board or the Nevada Gaming Commission, as applicable, on behalf of certain regulated businesses or industries. (NRS 281A.550) Section 27 of this bill increases this "cooling off" period to 2 years. Section 22 of this bill prohibits former public officers from receiving compensation or other consideration to~~

~~lobby any member of the governing body of the State or a political subdivision, as applicable, to which the former public officer was elected or appointed for 2 years after leaving office.~~

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

Section 1. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3, of this act.

Sec. 2. 1. *A candidate who is required to file a report described in subsection 1 of NRS 294A.373 is not required to file the report electronically if the candidate:*

(a) Did not receive or expend money in excess of \$10,000 after becoming a candidate pursuant to NRS 294A.005; and

(b) Has on file with the Secretary of State an affidavit which satisfies the requirements set forth in subsection 2 and which states that:

(1) The candidate does not own or have the ability to access the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373; and

(2) The candidate does not have the financial ability to purchase or obtain access to the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373.

2. *The affidavit described in subsection 1 must be:*

(a) In the form prescribed by the Secretary of State and signed under an oath to God or penalty of perjury. A candidate who signs the affidavit under an oath to God is subject to the same penalties as if the candidate had signed the affidavit under penalty of perjury.

(b) Filed not later than 15 days before the candidate is required to file a report described in subsection 1 of NRS 294A.373.

3. *A candidate who is not required to file the report electronically may file the report by transmitting the report by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted pursuant to this subsection shall be deemed to be filed on the date on which it is received by the Secretary of State.*

Sec. 3. 1. *A person, committee, political party, group of persons or business entity that is required to file a report described in subsection 1 of NRS 294A.373 is not required to file the report electronically if the person, committee, political party, group or business entity:*

(a) Did not receive or expend money in excess of \$10,000 in the previous calendar year; and

(b) Has on file with the Secretary of State an affidavit which satisfies the requirements set forth in subsection 2 and which states that:

(1) The person, committee, political party, group or business entity does not own or have the ability to access the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373; and

(2) The person, committee, political party, group or business entity does not have the financial ability to purchase or obtain access to the

technology necessary to file electronically the report described in subsection 1 of NRS 294A.373.

2. The affidavit described in subsection 1 must be:

(a) In the form prescribed by the Secretary of State and signed under an oath to God or penalty of perjury. A person who signs the affidavit under an oath to God is subject to the same penalties as if the person had signed the affidavit under penalty of perjury.

(b) Filed:

(1) At least 15 days before any report described in subsection 1 of NRS 294A.373 is required to be filed by the person, committee, political party, group or business entity.

(2) Not earlier than January 1 and not later than January 15 of each year, regardless of whether or not the person, committee, political party, group or business entity was required to file any report described in subsection 1 of NRS 294A.373 in the previous year.

3. A person, committee, political party, group of persons or business entity that has properly filed the affidavit pursuant to this section may file the relevant report with the Secretary of State by transmitting the report by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted pursuant to this subsection shall be deemed to be filed on the date on which it is received by the Secretary of State.

Sec. 4. NRS 294A.120 is hereby amended to read as follows:

294A.120 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report ~~each~~:

*(a) **Each** campaign contribution in excess of \$100 received during the period ~~and contributions~~;*

*(b) **Contributions** received during the period from a contributor which cumulatively exceed \$100 ~~+~~; and*

*(c) **The total of all contributions received during the period which are \$100 or less and which are not otherwise required to be reported pursuant to paragraph (b).***

↪ The provisions of this subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

*(a) ~~Seven~~ **Twenty-one** days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~12~~ **25** days before the primary election;*

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election for that office, for the period from ~~{11}~~ **24** days before the primary election through ~~{12}~~ **5** days before the ~~{general election}; and~~

~~— (c) July 15 of the year of~~ **primary election;**

(c) **Twenty-one days before** the general election for that office, for the period from ~~{11}~~ **4** days before the ~~{general}~~ **primary** election through ~~{June 30 of that year,}~~ **25 days before the general election; and**

(d) **Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,**

↪ report each campaign contribution ~~{in excess of \$100}~~ **described in subsection 1** received during the period. ~~{and contributions received during the period from a contributor which cumulatively exceed \$100.}~~ The report must be completed on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under **an oath to God or** penalty of perjury. **A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.**

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~{Seven}~~ **Twenty-one** days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~{12}~~ **25** days before the primary election; ~~and~~

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election for that office, for the period from ~~{11}~~ **24** days before the primary election through ~~{12}~~ **5** days before the ~~{general election,}~~ **primary election;**

(c) **Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and**

(d) **Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,**

↪ report each campaign contribution ~~{in excess of \$100}~~ **described in subsection 1** received during the period. ~~{and contributions received during the period from a contributor which cumulatively exceed \$100.}~~ The report must be completed on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under **an oath to God or** penalty of perjury. **A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.**

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from the candidate's nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

↪ report each campaign contribution ~~in excess of \$100~~ ***described in subsection 1*** received during the period. ~~and contributions received during the reporting period from a contributor which cumulatively exceed \$100.~~ The report must be completed on the form designed and ~~provided~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under ***an oath to God or*** penalty of perjury. ***A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.***

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall list each of the campaign contributions received on the form designed and ~~provided~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under ***an oath to God or*** penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) A district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

↪ ***A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.***

6. ~~[Reports]~~ ***Except as otherwise provided in section 2 of this act, reports*** of campaign contributions must be filed ***electronically*** with the ~~officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means.~~ ***Secretary of State.***

7. A report shall be deemed to be filed ~~with the officer:~~

(a) ~~On the date that it was mailed if it was sent by certified mail; or~~

—(b) ~~On~~ ***on*** the date that it was received by the ~~officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

—7. ~~Every county clerk who receives from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to this section shall file a copy of each report with the~~ Secretary of State. ~~[within 10 working days after receiving the report.]~~

8. The name and address of the contributor and the date on which the contribution was received must be included on the report for each

contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 5. NRS 294A.125 is hereby amended to read as follows:

294A.125 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives contributions in any year before the year in which the general election or general city election in which the candidate intends to seek election to public office is held shall, for:

(a) The year in which the candidate receives contributions in excess of \$10,000, list ~~each~~ :

(1) *Each* of the contributions received and the expenditures in excess of \$100 made in that year ~~+~~ ; and

(2) *The total of all contributions received and expenditures which are \$100 or less.*

(b) Each year after the year in which the candidate received contributions in excess of \$10,000, until the year of the general election or general city election in which the candidate intends to seek election to public office is held, list ~~each~~ :

(1) *Each* of the contributions received and the expenditures in excess of \$100 made in that year ~~+~~ ; and

(2) *The total of all contributions received and expenditures which are \$100 or less.*

2. The reports required by subsection 1 must be submitted on the form designed and ~~provided~~ *made available* by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under *an oath to God or* penalty of perjury. *A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.*

3. The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution in excess of \$100 and contributions that a contributor has made cumulatively in excess of that amount.

4. ~~[The]~~ *Except as otherwise provided in section 2 of this act, the* report must be filed ~~+~~

~~—(a) With the officer with whom the candidate will file the declaration of candidacy or acceptance of candidacy for the public office the candidate intends to seek. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means.~~ *electronically with the Secretary of State.*

5. A report shall be deemed to be filed ~~[with the officer:~~

~~—(1) On the date it was mailed if it was sent by certified mail.~~

~~—(2) On~~ *on* the date it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~—(b) On or before January 15 of the year immediately after the year for which the report is made.~~

~~—5. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report of contributions and expenditures pursuant to subsection 4 shall file a copy of the report with the Secretary of State . [within 10 working days after receiving the report.]~~

Sec. 6. NRS 294A.128 is hereby amended to read as follows:

294A.128 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives a loan which is guaranteed by a third party, forgiveness of a loan previously made to the candidate or a written commitment for a contribution shall, for the period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report:

(a) If a loan received by the candidate was guaranteed by a third party, the amount of the loan and the name and address of each person who guaranteed the loan;

(b) If a loan received by the candidate was forgiven by the person who made the loan, the amount that was forgiven and the name and address of the person who forgave the loan; and

(c) If the candidate received a written commitment for a contribution, the amount committed to be contributed and the name and address of the person who made the written commitment.

2. The reports required by subsection 1 must be submitted on the form designed and ~~provided~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under ***an oath to God or*** penalty of perjury. ***A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.***

3. ~~[The]~~ ***Except as otherwise provided in section 2 of this act, the*** reports required by subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

~~[4. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report pursuant to subsection 1 shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.]~~

Sec. 7. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action,

political party, committee sponsored by a political party and business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of the candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) ~~{Seven}~~ **Twenty-one** days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~{12}~~ **25** days before the primary election or primary city election;

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election for that office, for the period from ~~{11}~~ **24** days before the primary election or primary city election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election; ~~and~~

~~(c) July 15 of the year of~~

(c) **Twenty-one days before** the general election or general city election for that office, for the period from ~~{11}~~ **4** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election through ~~{June 30 of that year,}~~ **25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

➡ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under **an oath to God or penalty of perjury. A person who signs the form under an oath to God is**

subject to the same penalties as if the person had signed the form under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of \$100 since the beginning of the current reporting period.

4. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~Seven~~ **Twenty-one** days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~12~~ **25** days before the primary election or primary city election; ~~and~~

(b) ~~Seven~~ **Four** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election for that office, for the period from ~~11~~ **24** days before the primary election or primary city election through ~~12~~ **5** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election ~~;~~ ;

(c) **Twenty-one days before the general election or general city election for that office, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

➔ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under **an oath to God or penalty of perjury. A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

5. Except as otherwise provided in subsection 6, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the

period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and ~~provided~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under ***an oath to God or penalty of perjury. A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.***

6. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of candidates for offices at such special elections shall report each contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and ~~provided~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under ***an oath to God or*** penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

↪ ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.***

7. ~~{The}~~ ***Except as otherwise provided in section 3 of this act,*** the reports of contributions required pursuant to this section must be filed ***electronically with*** ~~the~~:

— (a) ~~If the candidate is elected from one county, the county clerk of that county;~~

— (b) ~~If the candidate is elected from one city, the city clerk of that city; or~~

— (c) ~~If the candidate is elected from more than one county or city, the Secretary of State.~~

8. ~~[A person or entity may file the report with the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.] A report shall be deemed to be filed {with the officer:~~

— (a) ~~On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On~~ **on** the date that it was received by the ~~officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~—9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.~~

~~—10. Secretary of State.~~

9. Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if the person, committee, political party or business entity receives no contributions.

Sec. 8. NRS 294A.150 is hereby amended to read as follows:

294A.150 1. Except as otherwise provided in NRS 294A.283, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall, not later than January 15 of each year that the provisions of this subsection apply to the person, group of persons or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$1,000 received during that period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under an oath to God or penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.** The provisions of this subsection apply to the person, group of persons or business entity:

(a) Each year in which:

(1) An election or city election is held for each question for which the person, group of persons or business entity advocates passage or defeat; or

(2) A person, group of persons or business entity receives or expends money in excess of \$10,000 to advocate the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election; and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends

money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:

(a) ~~[Seven]~~ **Twenty-one** days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through ~~12~~ **25** days before the primary election or primary city election;

(b) ~~[Seven]~~ **Four** days before the ~~[general]~~ **primary** election or ~~[general]~~ **primary** city election, for the period from ~~11~~ **24** days before the primary election or primary city election through ~~12~~ **5** days before the ~~[general]~~ **primary** election or ~~[general]~~ **primary** city election; ~~and~~

~~—(e) July 15 of the year of~~

(c) **Twenty-one days before** the general election or general city election, for the period from ~~11~~ **4** days before the ~~[general]~~ **primary** election or ~~[general]~~ **primary** city election through ~~June 30 of that year,~~ **25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

➤ report each campaign contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$1,000 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

4. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every

person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. Except as otherwise provided in NRS 294A.283, if a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:

(a) ~~Seven~~ **Twenty-one** days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through ~~12~~ **25** days before the primary election or primary city election; ~~and~~

(b) ~~Seven~~ **Four** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election, for the period from ~~11~~ **24** days before the primary election or primary city election through ~~12~~ **5** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election ~~1~~;

(c) **Twenty-one days before the general election or general city election, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

➔ report each campaign contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

5. Except as otherwise provided in subsection 6, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall, not later than:

(a) Seven days before the special election, for the period from the date that the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➔ report each campaign contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

6. Every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall report each of the contributions received on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under **an oath to God or** penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

➔ **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

7. ~~{The}~~ **Except as otherwise provided in section 3 of this act, the** reports required pursuant to this section must be filed **electronically** with ~~the~~:

—(a) ~~If the question is submitted to the voters of one county, the county clerk of that county;~~

—(b) ~~If the question is submitted to the voters of one city, the city clerk of that city; or~~

—(c) ~~If the question is submitted to the voters of more than one county or city;~~ the Secretary of State.

8. ~~{A person may mail or transmit the report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.} A report shall be deemed to be filed {with the officer:~~

—(a) ~~On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On~~ **on** the date that it was received by the ~~officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~ **Secretary of State.**

9. If the person or group of persons, including a business entity, is advocating passage or defeat of a group of questions, the reports must be itemized by question or petition.

~~[10. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.]~~

Sec. 9. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report ~~each~~ :

(a) *Each* of the campaign expenses in excess of \$100 incurred ~~and each~~ **during the period;**

(b) *Each* amount in excess of \$100 disposed of pursuant to NRS 294A.160 **during the period;**

(c) *The total of all campaign expenses incurred during the period which are \$100 or less; and*

(d) *The total of all amounts disposed of during the period pursuant to NRS 294A.160 which are \$100 or less,*

↪ on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under **an oath to God or** penalty of perjury. **A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.**

2. The provisions of ~~this~~ subsection **1** apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160.

~~[2.]~~ **3.** Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) ~~Seven~~ **Twenty-one** days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~12~~ **25** days before the primary election;

(b) ~~Seven~~ **Four** days before the ~~general~~ **primary** election for that office, for the period from ~~11~~ **24** days before the primary election through ~~12~~ **5** days before the ~~general~~ **primary** election; ~~and~~

(c) ~~July 15 of the year of~~ **Twenty-one days before** the general election for that office, for the period from ~~11~~ **4** days before the ~~general~~ **primary**

election through ~~June 30 of that year,~~ **25 days before the general election;**
and

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,

➤ report each of the campaign expenses ~~in excess of \$100~~ **described in subsection 1** incurred during the period on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under **an oath to God or** penalty of perjury.

~~{3-}~~ **A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.**

4. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~{Seven}~~ **Twenty-one** days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~{12}~~ **25** days before the primary election; ~~and~~

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election for that office, for the period from ~~{11}~~ **24** days before the primary election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** election ~~{1}~~ ;

(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,

➤ report each of the campaign expenses ~~in excess of \$100~~ **described in subsection 1** incurred during the period on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under **an oath to God or** penalty of perjury.

~~{4-}~~ **A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.**

5. Except as otherwise provided in subsection ~~{5-}~~ **6**, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from the candidate's nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➤ report each of the campaign expenses ~~in excess of \$100~~ **described in subsection 1** incurred during the period on the form designed and ~~provided~~

made available by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under *an oath to God or* penalty of perjury.

~~[5.]~~ *A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.*

6. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses ~~[in excess of \$100]~~ *described in subsection 1* incurred on the form designed and [provided] *made available* by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under *an oath to God or* penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

~~[6.]~~

A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.

~~__7. [Reports]~~ *Except as otherwise provided in section 2 of this act, reports* of campaign expenses must be filed *electronically* with the ~~[officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means.]~~ *Secretary of State.*

8. A report shall be deemed to be filed ~~[with the officer:~~

~~—(a) On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On] on~~ the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~—7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the] Secretary of State . [within 10 working days after receiving the report.]~~

Sec. 10. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or

approved by the candidate or group, and every committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.** The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) ~~Seven~~ **Twenty-one** days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~12~~ **25** days before the primary election or primary city election;

(b) ~~Seven~~ **Four** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election for that office, for the period from ~~11~~ **24** days before the primary election or primary city election through ~~12~~ **5** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election; ~~and~~

(c) ~~July 15 of the year of~~ **Twenty-one days before** the general election or general city election for that office, for the period from ~~11~~ **4** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election through ~~the June 30 of that year,~~ **25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

→ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and ~~provided~~ **made available** by the Secretary

of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

3. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~Seven~~ **Twenty-one** days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~12~~ **25** days before the primary election or primary city election; ~~and~~

(b) ~~Seven~~ **Four** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election for that office, for the period from ~~11~~ **24** days before the primary election or primary city election through ~~12~~ **5** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election ~~1~~ ;

(c) **Twenty-one days before the general election or general city election for that office, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

➤ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

4. Except as otherwise provided in subsection 5, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

↪ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

5. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under **an oath to God or** penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

↪ **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. ~~The~~ **Except as otherwise provided in section 3 of this act, the** reports must be filed **electronically** with ~~the~~:

—(a) ~~If the candidate is elected from one county, the county clerk of that county;~~

—(b) ~~If the candidate is elected from one city, the city clerk of that city; or~~

—(c) ~~If the candidate is elected from more than one county or city, the~~ Secretary of State.

8. If an expenditure is made on behalf of a group of candidates, the reports must be itemized by the candidate. ~~A person may mail or transmit the report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.~~

9. A report shall be deemed to be filed ~~with the officer:~~

—(a) ~~On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On~~ *on* the date that it was received by the ~~officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~—9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the~~ Secretary of State . ~~[within 10 working days after receiving the report.~~

~~—10.]~~ Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if the person, committee, political party or business entity receives no contributions.

Sec. 11. NRS 294A.220 is hereby amended to read as follows:

294A.220 1. Except as otherwise provided in NRS 294A.283, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and ~~provided~~ *made available* by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under *an oath to God or* penalty of perjury. *A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.* The provisions of this subsection apply to the person, group of persons or business entity:

(a) Each year in which:

(1) An election or city election is held for a question for which the person, group of persons or business entity advocates passage or defeat; or

(2) A person, group of persons or business entity receives or expends money in excess of \$10,000 to advocate the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election; and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat

of such question or group of questions shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:

(a) ~~{Seven}~~ **Twenty-one** days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through ~~{12}~~ **25** days before the primary election or primary city election;

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election, for the period from ~~{11}~~ **24** days before the primary election or primary city election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election; ~~and~~

~~(c) July 15 of the year of~~

(c) **Twenty-one days before** the general election or general city election, for the period from ~~{11}~~ **4** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election through ~~{the June 30 immediately preceding that July 15,}~~ **25 days before the general election or general city election;** **and**

(d) **Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

➤ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

3. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of

this subsection. Except as otherwise provided in NRS 294A.283, if a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:

(a) ~~[Seven]~~ **Twenty-one** days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through ~~12~~ **25** days before the primary election or primary city election; ~~and~~

(b) ~~[Seven]~~ **Four** days before the ~~[general]~~ **primary** election or ~~[general]~~ **primary** city election, for the period from ~~11~~ **24** days before the primary election or primary city election through ~~12~~ **5** days before the ~~[general]~~ **primary** election or ~~[general]~~ **primary** city election ~~1~~ ;

(c) **Twenty-one days before the general election or general city election, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

➡ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

4. Except as otherwise provided in subsection 5, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➡ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and ~~provided~~ **made**

available by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under *an oath to God or* penalty of perjury. *A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.*

5. Every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled and who receives or expends money in an amount in excess of \$10,000 to advocate the passage or defeat of such question or group of questions shall list each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 on the form designed and ~~provided~~ *made available* by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under *an oath to God or* penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

↪ A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. ~~The~~ *Except as otherwise provided in section 3 of this act,* reports required pursuant to this section must be filed *electronically* with ~~the~~

~~—(a) If the question is submitted to the voters of one county, the county clerk of that county;~~

~~—(b) If the question is submitted to the voters of one city, the city clerk of that city; or~~

~~—(c) If the question is submitted to the voters of more than one county or city,~~ the Secretary of State.

8. If an expenditure is made on behalf of a group of questions, the reports must be itemized by question or petition. ~~A person may mail or transmit the report to the appropriate filing officer by regular mail, certified mail, facsimile machine or electronic means.~~

9. A report shall be deemed to be filed ~~with the filing officer:~~

~~—(a) On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On~~ **on** the date that it was received by the ~~{filing officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~—9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the~~ Secretary of State . ~~{within 10 working days after receiving the report.}~~

Sec. 12. NRS 294A.270 is hereby amended to read as follows:

294A.270 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

↪ report each contribution received or made by the committee in excess of \$100 on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each contribution received by the committee, and each contribution made by the committee in excess of \$100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each contribution received by the committee, and each contribution made by the committee in excess of \$100.

4. ~~{Each}~~ **Except as otherwise provided in section 3 of this act, each** report of contributions must be filed **electronically** with the Secretary of State. ~~{The committee may mail or transmit the report by regular mail, certified mail, facsimile machine or electronic means.}~~

5. A report shall be deemed to be filed ~~{with the Secretary of State:~~

~~—(a) On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On~~ **on** the date that it was received by the Secretary of State . ~~{if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~—5.}~~ **6.** The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution, whether from or to a natural person, association or corporation, in excess of \$100 and contributions which a contributor or the committee has

made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 13. NRS 294A.280 is hereby amended to read as follows:

294A.280 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

↪ report each expenditure made by the committee in excess of \$100 on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under an oath to God or penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each expenditure made by the committee in excess of \$100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each expenditure made by the committee in excess of \$100.

4. ~~Each~~ **Except as otherwise provided in section 3 of this act, each** report of expenditures must be filed **electronically** with the Secretary of State. ~~The committee may mail or transmit the report to the Secretary of State by regular mail, certified mail, facsimile machine or electronic means.~~

5. A report shall be deemed to be filed ~~with the Secretary of State:~~

~~—(a) On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On the date that it was received by the Secretary of State . if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

Sec. 14. NRS 294A.283 is hereby amended to read as follows:

294A.283 1. Every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of \$10,000 for such advocacy shall, not later than the dates listed in subsection 2, report:

(a) Each campaign contribution in excess of \$1,000 received during each period described in subsection 2;

(b) Contributions received during each period described in subsection 2 from a contributor which cumulatively exceed \$1,000;

(c) Each expenditure in excess of \$1,000 the person, group of persons or business entity makes during each period described in subsection 2; and

(d) The total amount of money the person, group of persons or business entity has at the beginning of each period described in subsection 2, accounting for all contributions received and expenditures made during each previous period.

2. Every person, group of persons or business entity required to report pursuant to subsection 1 shall file that report with the Secretary of State:

(a) For the period beginning on the first day a copy of the petition may be filed with the Secretary of State before it is circulated for signatures pursuant to Section 1 or Section 2 of Article 19 of the Nevada Constitution, as applicable, and ending on the following March 31, not later than April 15;

(b) For the period beginning on April 1 and ending on July 31, not later than August 15;

(c) For the period beginning on August 1 and ending on September 30, not later than October 15; and

(d) For the period beginning on October 1 and ending on December 31, not later than the following January 15.

3. The name and address of the contributor and the date on which the contribution was received must be included on each report for each contribution in excess of \$1,000 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the applicable reporting period.

4. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in each report.

5. Each report required pursuant to this section must:

(a) Be on the form designed and ~~provided~~ *made available* by the Secretary of State pursuant to NRS 294A.373; and

(b) Be signed by the person or a representative of the group of persons or business entity under *an oath to God or* penalty of perjury. *A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.*

6. ~~{A}~~ *Except as otherwise provided in section 3 of this act*, a person, group of persons or business entity ~~may mail or transmit~~ *shall file* each report ~~to~~ *electronically with* the Secretary of State. ~~{By certified mail, regular mail, facsimile machine or electronic means or may deliver the report personally.}~~

7. A report shall be deemed to be filed ~~with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On~~ **on** the date that it was received by the Secretary of State . ~~if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

Sec. 15. NRS 294A.286 is hereby amended to read as follows:

294A.286 1. A person who administers a legal defense fund shall:

(a) Within 5 days after the creation of the legal defense fund, notify the Secretary of State of the creation of the fund on a form provided by the Secretary of State; and

(b) For the same period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report any contribution received by or expenditure made from the legal defense fund.

2. The reports required by paragraph (b) of subsection 1 must be submitted on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the administrator of the legal defense fund under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

3. ~~The~~ **Except as otherwise provided in section 2 of this act, the** reports required by paragraph (b) of subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

Sec. 16. NRS 294A.360 is hereby amended to read as follows:

294A.360 1. ~~Every~~ **Except as otherwise provided in section 2 of this act, every** candidate for city office at a primary city election or general city election shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general city election for that office through the year immediately preceding the next general city election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160.

2. ~~Every~~ **Except as otherwise provided in section 2 of this act, every** candidate for city office at a primary city election or general city election, if the general city election for the office for which he or she is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) ~~Seven~~ **Twenty-one** days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through ~~12~~ **25** days before the primary city election;

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** city election for that office, for the period from ~~{11}~~ **24** days before the primary city election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** city election; ~~and~~

~~—(c) July 15 of the year of~~

(c) **Twenty-one days before** the general city election for that office, for the period from ~~{11}~~ **4** days before the ~~{general}~~ **primary** city election through ~~{the June 30 of that year.}~~ **25 days before the general city election; and**

(d) **Four days before the general city election for that office, for the period from 24 days before the general city election through 5 days before the general city election.**

3. ~~{Every}~~ **Except as otherwise provided in section 2 of this act, every** candidate for city office at a primary city election or general city election, if the general city election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) ~~{Seven}~~ **Twenty-one** days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through ~~{12}~~ **25** days before the primary city election; ~~and~~

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** city election for that office, for the period from ~~{11}~~ **24** days before the primary city election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** city election ~~{;}~~;

(c) **Twenty-one days before the general city election for that office, for the period from 4 days before the primary city election through 25 days before the general city election; and**

(d) **Four days before the general city election for that office, for the period from 24 days before the general city election through 5 days before the general city election.**

4. Except as otherwise provided in subsection 5, every candidate for city office at a special election shall so file those reports:

(a) Seven days before the special election, for the period from the candidate's nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election.

5. Every candidate for city office at a special election to determine whether a public officer will be recalled shall so file those reports 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

Sec. 17. NRS 294A.362 is hereby amended to read as follows:

294A.362 1. In addition to reporting information pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.360, each candidate who is required to file a report of campaign contributions and expenses pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 or 294A.360 shall report on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373 goods and services provided in kind for which money would otherwise have been paid. The candidate shall list on the form ~~each~~ :

(a) **Each** such campaign contribution in excess of \$100 received during the reporting period ~~each~~ ;

(b) **Each** such campaign contribution from a contributor received during the reporting period which cumulatively exceeds \$100 ~~and each~~ ;

(c) **Each** such expense in excess of \$100 incurred during the reporting period ~~it~~ ;

(d) **The total of all such campaign contributions received during the reporting period which are \$100 or less and which are not otherwise required to be reported pursuant to paragraph (b); and**

(e) **The total of all such expenses incurred during the reporting period which are \$100 or less.**

2. The Secretary of State and each city clerk shall not require a candidate to list the campaign contributions and expenses described in this section on any form other than the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373.

3. **Except as otherwise provided in section 2 of this act, the report required by subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 or 294A.360.**

Sec. 18. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design ~~a single form~~ **forms** to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283, 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to NRS 294A.286.

2. The ~~form~~ **forms** designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. ~~Upon request, the~~ **The** Secretary of State shall ~~provide~~ **make available to each candidate, person, committee, political party, group of persons or business entity that is required to file a report described in subsection 1:**

(a) **If the candidate, person, committee, political party, group or business entity has submitted an affidavit to the Secretary of State pursuant to section 2 or 3 of this act, as applicable, a copy of the form ~~designed~~**

~~pursuant to this section to each person, committee, political party, group and business entity that is required to file a report described in subsection 1.;~~ *or*

(b) If the candidate, person, committee, political party, group or business entity is required to submit the report electronically to the Secretary of State, access through a secure website to the form.

4. *If the candidate, person, committee, political party, group of persons or business entity is required to submit electronically a report described in subsection 1, the form must be signed electronically under an oath to God or penalty of perjury. A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.*

5. The Secretary of State must obtain the advice and consent of the Legislative Commission before ~~providing~~ **making** a copy of, *or access to*, a form designed or revised by the Secretary of State pursuant to this section *available* to a *candidate*, person, committee, political party, group *of persons* or business entity. ~~[that is required to use the form.]~~

Sec. 18.5. NRS 294A.382 is hereby amended to read as follows:

294A.382 The Secretary of State shall not request or require a candidate, person, group of persons, committee, political party or business entity to list each of the expenditures or campaign expenses of \$100 or less on a form designed and ~~provided~~ **made available** pursuant to NRS 294A.373.

Sec. 19. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;
2. An acceptance of candidacy;
3. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.227; *or*
4. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286, ~~;~~ *or*

~~5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283 or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,;~~

↪ shall furnish the candidate *or entity* with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283 or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and

294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 20. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283, ~~and~~ 294A.286, **294A.360 and 294A.362**, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of \$100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of \$100.

4. The expenditures exceeding \$100 made by a:

(a) Person on behalf of a candidate other than the person.
(b) Group of persons or business entity advocating the election or defeat of a candidate.

(c) Committee for the recall of a public officer.

5. The contributions in excess of \$100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates.

6. The contributions in excess of \$1,000 made to and the expenditures exceeding \$1,000 made by a:

(a) Person or group of persons organized formally or informally, including a business entity who advocates the passage or defeat of a question or group of questions on the ballot and who receives or expends money in an amount in excess of \$10,000 for such advocacy, except as otherwise provided in paragraph (b).

(b) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who

receives or expends money in an amount in excess of \$10,000 for such advocacy.

7. The total contributions received by and expenditures made from a legal defense fund.

Sec. 21. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 22 and 23 of this act.

Sec. 22. ~~1. Except as otherwise provided in subsection 2, a former public officer shall not receive compensation or other consideration to:~~

~~— (a) Appear in person in the building in which the governing body holds meetings; and~~

~~— (b) Communicate directly with a member of the governing body on behalf of someone other than himself or herself to influence legislative action;~~

~~— for a period of 2 years after the end of his or her term of office or appointment.~~

~~2. The provisions of subsection 1 do not apply to a former public officer in any of the following circumstances:~~

~~— (a) The former public officer is an employee of a bona fide news medium who engages in conduct described in subsection 1 only in the course of his or her professional duties and who contacts members of the governing body for the sole purpose of carrying out his or her news gathering function;~~

~~— (b) The former public officer is now an officer or employee of a governing body other than the governing body to which the former public officer was elected or appointed, if the appearance or communication is for the purpose of influencing legislative action on behalf of that governing body;~~

~~— (c) The former public officer is an elected officer of this State or a political subdivision who confines his or her appearance or communication with the governing body to issues directly related to the scope of the office to which he or she was elected.~~

~~3. As used in this section:~~

~~— (a) "Consideration" means a gift, salary, payment, distribution, loan, advance or deposit of money or anything of value and includes, without limitation, a contract, promise or agreement, whether or not legally enforceable;~~

~~— (b) "Governing body" means the legislative body of the State or political subdivision to which the former public officer was elected or appointed, or any standing committee thereof;~~

~~— (c) "Legislative action" means introduction, sponsorship, debate, voting and any other official action on any bill, resolution, ordinance, amendment, nomination, appointment, report and any other matter pending before or proposed by a governing body, or on any matter which may be the subject of action by the governing body.] (Deleted by amendment.)~~

Sec. 23. 1. A candidate or public officer who is required to file a statement of financial disclosure with the Secretary of State pursuant to NRS 281A.600 or 281A.610 is not required to file the statement electronically if the candidate or public officer has on file with the

Secretary of State an affidavit which satisfies the requirements set forth in subsection 2 and which states that:

(a) The candidate or public officer does not own or have the ability to access the technology necessary to file electronically the statement of financial disclosure; and

(b) The candidate or public officer does not have the financial ability to purchase or obtain access to the technology necessary to file electronically the statement of financial disclosure.

2. The affidavit described in subsection 1 must be:

(a) In the form prescribed by the Secretary of State and signed under an oath to God or penalty of perjury. A candidate or public officer who signs the affidavit under an oath to God is subject to the same penalties as if the candidate or public officer had signed the affidavit under penalty of perjury.

(b) Except as otherwise provided in subsection 4, filed not less than 15 days before the statement of financial disclosure is required to be filed.

3. A candidate or public officer who is not required to file the statement of financial disclosure electronically may file the statement of financial disclosure by transmitting the statement by regular mail, certified mail, facsimile machine or personal delivery. A statement of financial disclosure transmitted pursuant to this subsection shall be deemed to be filed on the date that it was received by the Secretary of State.

4. A person who is appointed to fill the unexpired term of an elected or appointed public officer must file the affidavit described in subsection 1 not later than 15 days after his or her appointment to be exempted from the requirement of filing a report electronically.

Sec. 24. NRS 281A.240 is hereby amended to read as follows:

281A.240 1. In addition to any other duties imposed upon the Executive Director, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive requests for opinions pursuant to NRS 281A.440.

(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the investigatory panel appointed pursuant to NRS 281A.220 regarding whether there is just and sufficient cause to render an opinion in response to a particular request.

(d) Recommend to the Commission any regulations or legislation that the Executive Director considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize

that the Executive Director is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

(f) Perform such other duties, not inconsistent with law, as may be required by the Commission.

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of the Executive Director's duties relating to:

- (a) The administration of the affairs of the Commission; *and*
- (b) ~~the review of statements of financial disclosure; and~~
- ~~(c) The investigation of matters under the jurisdiction of the Commission.~~

Sec. 25. NRS 281A.290 is hereby amended to read as follows:

281A.290 The Commission shall:

1. Adopt procedural regulations:
 - (a) To facilitate the receipt of inquiries by the Commission;
 - (b) For the filing of a request for an opinion with the Commission;
 - (c) For the withdrawal of a request for an opinion by the person who filed the request; and
 - (d) To facilitate the prompt rendition of opinions by the Commission.
2. Prescribe, by regulation, ~~forms for the submission of statements of financial disclosure and procedures for the submission of statements of financial disclosure filed pursuant to NRS 281A.600 and~~ forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500, maintain files of such statements and make the statements available for public inspection.
3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.
4. ~~Except as otherwise provided in NRS 281A.600, inform~~ **Inform** the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter ~~and~~ **, other than cases of noncompliance with NRS 281A.600, 281A.610 and 281A.620.**

5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

6. Publish a manual for the use of public officers and employees that contains:

- (a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281A.440, for the future guidance of all persons concerned with ethical standards in government;
- (b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; and
- (c) An abstract of the requirements of this chapter.

↪ The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the abstracts and published opinions of the Commission.

Sec. 26. NRS 281A.470 is hereby amended to read as follows:

281A.470 1. Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of the public officer's or employee's own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct the public officer's or employee's inquiry to that committee instead of the Commission.

(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the ~~Commission~~ **Secretary of State** for review; and

(2) Upon review, approved by the ~~Commission~~ **Secretary of State**.

2. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

Sec. 27. ~~NRS 281A.550 is hereby amended to read as follows:~~

~~281A.550 1. A former member of the Public Utilities Commission of Nevada shall not:~~

~~— (a) Be employed by a public utility or parent organization or subsidiary of a public utility [;] for 1 year after the termination of the member's service on the Public Utilities Commission of Nevada; or~~

~~— (b) Appear before the Public Utilities Commission of Nevada to testify on behalf of a public utility or parent organization or subsidiary of a public utility [;~~

~~↪ for 1 year] for 2 years after the termination of the member's service on the Public Utilities Commission of Nevada.~~

~~— 2. A former member of the State Gaming Control Board or the Nevada Gaming Commission shall not:~~

~~—(a) Appear before the State Gaming Control Board or the Nevada Gaming Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS [;] for 2 years after the termination of the member's service on the State Gaming Control Board or the Nevada Gaming Commission; or~~

~~—(b) Be employed by such a person [;~~

~~→] for 1 year after the termination of the member's service on the State Gaming Control Board or the Nevada Gaming Commission.~~

~~—3. In addition to the prohibitions set forth in subsections 1 and 2, and except as otherwise provided in subsections 4 and 6, a former public officer or employee of a board, commission, department, division or other agency of the Executive Department of State Government, except a clerical employee, shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted by the board, commission, department, division or other agency for 1 year after the termination of the former public officer's or employee's service or period of employment if:~~

~~—(a) The former public officer's or employee's principal duties included the formulation of policy contained in the regulations governing the business or industry;~~

~~—(b) During the immediately preceding year, the former public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ the former public officer or employee; or~~

~~—(c) As a result of the former public officer's or employee's governmental service or employment, the former public officer or employee possesses knowledge of the trade secrets of a direct business competitor.~~

~~—4. The provisions of subsection 3 do not apply to a former public officer who was a member of a board, commission or similar body of the State if:~~

~~—(a) The former public officer is engaged in the profession, occupation or business regulated by the board, commission or similar body;~~

~~—(b) The former public officer holds a license issued by the board, commission or similar body; and~~

~~—(c) Holding a license issued by the board, commission or similar body is a requirement for membership on the board, commission or similar body.~~

~~—5. Except as otherwise provided in subsection 6, a former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:~~

~~—(a) The amount of the contract exceeded \$25,000;~~

~~— (b) The contract was awarded within the 12 month period immediately preceding the termination of the officer's or employee's service or period of employment; and~~

~~— (c) The position held by the former public officer or employee at the time the contract was awarded allowed the former public officer or employee to affect or influence the awarding of the contract.~~

~~— 6. A current or former public officer or employee may request that the Commission apply the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:~~

~~— (a) The best interests of the public;~~

~~— (b) The continued ethical integrity of the State Government or political subdivision, as applicable; and~~

~~— (c) The provisions of this chapter,~~

~~→ it may issue an opinion to that effect and grant such relief. The opinion of the Commission in such a case is final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the current or former public officer or employee.~~

~~— 7. Each request for an opinion that a current or former public officer or employee submits to the Commission pursuant to subsection 6, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the current or former public officer or employee who requested the opinion:~~

~~— (a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;~~

~~— (b) Discloses the request for the opinion, the contents of the opinion or any motion, evidence or record of a hearing related thereto; or~~

~~— (c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.~~

~~— 8. A meeting or hearing that the Commission or an investigatory panel holds to receive information or evidence concerning the propriety of the conduct of a current or former public officer or employee pursuant to this section and the deliberations of the Commission and the investigatory panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.~~

~~— 9. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038 and also includes regulations adopted by a board, commission, department, division or other agency of the Executive~~

~~Department of State Government that is exempted from the requirements of chapter 233B of NRS.1 (Deleted by amendment.)~~

Sec. 28. NRS 281A.600 is hereby amended to read as follows:

281A.600 1. Except as otherwise provided in ~~subsection 2,~~ *subsections 2 and 3 and section 23 of this act*, if a public officer who was appointed to the office for which the public officer is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office, the public officer shall file *electronically* with the ~~Commission~~ *Secretary of State* a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after the public officer's appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

➡ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. If a person is serving in a public office for which the person is required to file a statement pursuant to subsection 1, the person may use the statement the person files for that initial office to satisfy the requirements of subsection 1 for every other public office to which the person is appointed and in which the person is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

4. ~~The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:~~

~~—(a) The name of each public officer who failed to file a statement of financial disclosure within the period before the notice is sent;~~

~~—(b) The name of each public officer who filed a statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;~~

~~—(c) For the first notice sent after the public officer filed a statement of financial disclosure, the name of each public officer who filed a statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and~~

~~—(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.~~

~~5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.~~

~~6. A statement of financial disclosure shall be deemed to be filed with the Commission:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On the date that it was received by the Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~ *Secretary of State.*

5. Except as otherwise provided in section 23 of this act, the Secretary of State shall provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section.

6. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.

Sec. 29. NRS 281A.610 is hereby amended to read as follows:

281A.610 1. Except as otherwise provided in ~~subsection 2,~~ **subsections 2 and 3 and section 23 of this act**, each candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that the candidate is seeking and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which the public officer is serving shall file *electronically* with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if the candidate is elected to the office.

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires. The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which the candidate is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281A.600, the candidate need not file the statement required by subsection 1 for the full calendar year for which the candidate previously

filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

5. A statement of financial disclosure shall be deemed to be filed ~~with the Secretary of State:~~

~~—(a) On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On the date that it was received by the Secretary of State. If the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~—6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281A.290.~~

~~—7. The~~

6. *Except as otherwise provided in section 23 of this act, the Secretary of State shall ~~prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.~~ provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section.*

7. *The Secretary of State may adopt regulations necessary to carry out the provisions of this section.*

Sec. 30. NRS 281A.620 is hereby amended to read as follows:

281A.620 1. Statements of financial disclosure, as approved pursuant to NRS 281A.470 or in such *electronic* form as the ~~Commission~~ **Secretary of State** otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) The candidate's or public officer's length of residence in the State of Nevada and the district in which the candidate for public office or public officer is registered to vote.

(b) Each source of the candidate's or public officer's income, or that of any member of the candidate's or public officer's household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which the candidate for public office or public officer or a member of the candidate's or public officer's household has a legal or beneficial interest;

(2) Whose fair market value is \$2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom the candidate for public office or public officer or a member of the candidate's or public officer's household owes \$5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which the candidate for public office or public officer or a member of the candidate's or public officer's household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by the candidate for public office or public officer for which this statement of financial disclosure is required.

2. ~~The [Commission shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The Commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281A.470.]~~
Secretary of State may adopt regulations necessary to carry out the provisions of this section.

3. As used in this section, "member of the candidate's or public officer's household" includes:

(a) The spouse of the candidate for public office or public officer;

(b) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and

(c) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.

Sec. 31. NRS 281A.630 is hereby amended to read as follows:

281A.630 1. Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS 281A.600, 281A.610 and 281A.620 must be retained by the ~~{Commission or}~~ Secretary of State for 6 years after the date of filing.

2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.

Sec. 32. NRS 281A.640 is hereby amended to read as follows:

281A.640 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the ~~{Commission and to the}~~ Secretary of State, in a form prescribed by the ~~{Commission,}~~ **Secretary of State**, on or before December 1 of each year by:

(a) Each county clerk for all public officers of the county and other local governments within the county other than cities;

(b) Each city clerk for all public officers of the city;

(c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and

(d) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.

2. ~~{The Secretary of State, each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Commission, and each}~~ **Each** county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Secretary of State, in a form prescribed by the ~~{Commission,}~~ **Secretary of State**, a list of each candidate for public office who filed a declaration of candidacy or acceptance of candidacy with that officer within 10 days after the last day to qualify as a candidate for the applicable office.

Sec. 33. NRS 281A.650 is hereby amended to read as follows:

281A.650 The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk who receives from a candidate for public office a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate :

1. *If the candidate is a candidate for judicial office*, the form prescribed by the ~~{Commission}~~ *Administrative Office of the Courts* for the making of a statement of financial disclosure ~~{}~~;

2. *If the candidate is not a candidate for judicial office and is required to file electronically the statement of financial disclosure, access to the electronic form prescribed by the Secretary of State; or*

3. *If the candidate is not a candidate for judicial office, is required to submit the statement of financial disclosure electronically and has submitted an affidavit to the Secretary of State pursuant to section 23 of this act, the form prescribed by the Secretary of State,*

↪ accompanied by instructions on how to complete the form ~~{}~~, where it must be filed~~}~~ and the time by which it must be filed.

~~Sec. 34. ~~{}~~ This section and sections 22 and 27 of this act become effective on July 1, 2011.~~

~~2. Sections 1 to 21, inclusive, 23 to 26, inclusive, and 28 to 33, inclusive, of this act ~~become~~ become effective on January 1, 2012.~~

Senator Parks moved the adoption of the amendment.

Remarks by Senators Parks and Hardy.

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

SENATOR PARKS:

Assembly Bill No. 452 relates to campaign finance.

Amendment No. 834 makes the following changes: a person signing campaign contribution and expenditure reports who signs the report under an oath to God is still subject to the same penalties as if he or she signed under penalty of perjury; and for cooling off periods applicable to former members of certain state agencies and former public officers, they are removed from the bill.

SENATOR HARDY:

Thank you, Mr. President. The amendments are scattered through the bill. It says, "a person who signs a form under an oath to God is subject to the same penalties."

What if the person is an atheist?

SENATOR PARKS:

Thank you, Mr. President. They would have to sign, "under penalty of perjury."

SENATOR HARDY:

There are some people who believe in God. They may have a problem in taking an oath or swearing to something. Therefore, they have different verbiage they use. Would they be covered under "taking a statement under penalty of perjury" and it would still be all right?

SENATOR PARKS:

Thank you, Mr. President. Yes, the language was reviewed by the Secretary of State's Office. They had no problem with the language. The lines on the various forms would add the condition that it has been signed under penalty of perjury or that you have signed it under an oath to God.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 471.

Bill read second time.

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

Amendment No. 749.

"SUMMARY—Revises provisions relating to enterprise funds. (BDR 31-915)"

"AN ACT relating to local government financial administration; limiting the authority of a governing body of a local government to loan or transfer money from an enterprise fund and to increase fees imposed for the purpose of an enterprise fund; requiring certain reports from the Committee on Local Government Finance; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Local Government Budget and Finance Act authorizes the governing body of a local government to establish certain funds, including an enterprise fund to account for operations which are financed and conducted in a manner similar to the operations of a private business, where the intent of the governing body is to have the expenses of providing goods or services to the general public financed through charges imposed on users. (NRS 354.470-354.626) **Section 1** of this bill allows a governing body of a local government to loan or transfer money from an enterprise fund only if the loan or transfer is made: (1) as a medium-term obligation in compliance with certain requirements; (2) to pay the expenses of the pertinent enterprise; (3) for a cost allocation for employees, equipment or other resources; or (4) upon the dissolution of the fund. In addition, **section 1** allows such a governing body to increase the amount of the fees imposed for the purpose for which an enterprise fund was created only if the ~~Committee on Local Government Finance approves that increase or the fees are imposed on certain public utilities for a right-of-way over a public area. Lastly,~~ **fees are used for certain specified purposes or the governing body determines that: (1) the increase is not prohibited by law; (2) the increase is necessary for the pertinent enterprise; and (3) all fees that are deposited in the enterprise fund are used solely for the purposes for which the fees are collected.** Furthermore, **section 1** requires the Committee **on Local Government Finance** to submit biennial reports to the Legislature regarding compliance with the requirements of that section. **Section 9** of this bill provides that any officer or employee of a local government who violates **section 1** is guilty of a misdemeanor and upon conviction ceases to hold his or her office or employment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~{The}~~ Except as otherwise provided in this section, the governing body of a local government may, on or after July 1, 2011, loan or transfer money from an enterprise fund, money collected from fees imposed for the purpose for which an enterprise fund was created or any income or interest earned on money in an enterprise fund only if the loan or transfer is made:

(a) In accordance with a medium-term obligation issued by the recipient in compliance with the provisions of chapter 350 of NRS, the loan or transfer is proposed to be made and the governing body approves the loan or transfer under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and:

(1) The money is repaid in full to the enterprise fund within 5 years;

or

(2) If the recipient will be unable to repay the money in full to the enterprise fund within 5 years, the recipient notifies the Committee on Local Government Finance of:

(I) The total amount of the loan or transfer;

(II) The purpose of the loan or transfer;

(III) The date of the loan or transfer; and

(IV) The estimated date that the money will be repaid in full to the enterprise fund;

(b) To pay the expenses related to the purpose for which the enterprise fund was created;

(c) For a cost allocation for employees, equipment or other resources related to the purpose of the enterprise fund ~~++~~ which is approved by the governing body under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body; or

(d) Upon the dissolution of the enterprise fund.

2. Except as otherwise provided in ~~subsection 3,~~ this section, the governing body of a local government may increase the amount of any fee imposed for the purpose for which an enterprise fund was created only if the ~~{Committee on Local Government Finance}~~ governing body approves the increase ~~f. The Committee may approve such an increase if it~~ under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and the governing body determines that:

(a) The increase is not prohibited by law;

(b) The increase is necessary for the continuation or expansion of the purpose for which the enterprise fund was created; and

(c) ~~{The governing body is not using any money from the enterprise fund, any money collected from fees imposed for the purpose for which the enterprise fund was created or any income or interest earned on money in the enterprise fund for any purpose other than that for which the enterprise fund was created, except to repay any money loaned or transferred to the enterprise fund from another fund of the local government or of another local government to provide working capital for the enterprise fund.}~~

~~3. All fees that are deposited in the enterprise fund are used solely for the purposes for which the fees are collected.~~

3. Upon the adoption of an increase in any fee pursuant to subsection 2, the governing body shall, except as otherwise provided in this subsection, provide to the Department of Taxation an executed copy of the action increasing the fee. This requirement does not apply to the governing body of a federally regulated airport.

4. The provisions of subsection 2 do not limit the authority of the governing body of a local government to increase the amount of any fee imposed upon a public utility in compliance with the provisions of NRS 354.59881 to 354.59889, inclusive, for a right-of-way over any public area if the public utility is billed separately for that fee. As used in this subsection, "public utility" has the meaning ascribed to it in NRS 354.598817.

~~4.4~~ 5. This section must not be construed to:

(a) Prohibit a local government from increasing a fee or using money in an enterprise fund to repay a loan lawfully made to the enterprise fund from another fund of the local government; or

(b) Prohibit or impose any substantive or procedural limitations on any increase of a fee that is necessary to meet the requirements of an instrument that authorizes any bonds or other debt obligations which are secured by or payable from, in whole or in part, money in the enterprise fund or the revenues of the enterprise for which the enterprise fund was created.

6. The Department of Taxation shall provide to the Committee on Local Government Finance a copy of each report submitted to the Department on or after July 1, 2011, by a county or city pursuant to NRS 354.6015. The Committee shall:

(a) Review each report to determine whether the governing body of the local government is in compliance with the provisions of this section; and

(b) On or before January 15 of each odd-numbered year, submit a report of its findings to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

~~f 5. As used in this section, "public utility" has the meaning ascribed to it in NRS 354.598817.~~

7. A fee increase imposed in violation of this section must not be invalidated on the basis of that violation. The sole remedy for a violation of this section is the penalty provided in NRS 354.626. Any person who pays a fee for the enterprise for which the enterprise fund is created may file a complaint with the district attorney or Attorney General alleging a violation of this section for prosecution pursuant to NRS 354.626.

8. For the purposes of paragraph (c) of subsection 1, the Committee on Local Government Finance shall adopt regulations setting forth the extent to which general, overhead, administrative and similar expenses of a local

government of a type described in paragraph (c) of subsection 1 may be allocated to an enterprise fund. The regulations must require that:

(a) Each cost allocation makes an equitable distribution of all general, overhead, administrative and similar expenses of the local government among all activities of the local government, including the activities funded by the enterprise fund; and

(b) Only the enterprise fund's equitable share of those expenses may be treated as expenses of the enterprise fund and allocated to it pursuant to paragraph (c) of subsection 1.

9. Except as otherwise provided in subsections 10 and 11, if a local government has subsidized its general fund with money from an enterprise fund for the 5 fiscal years immediately preceding the fiscal year beginning on July 1, 2011, the provisions of subsection 1 do not apply until July 1, 2021, to transfers from the enterprise fund to the general fund of the local government for the purpose of subsidizing the general fund if the local government:

(a) Does not increase the amount of the transfers to subsidize the general fund in any fiscal year beginning on or after July 1, 2011, above the amount transferred in the fiscal year ending on June 30, 2011, except for loans and transfers that comply with the provisions of subsection 1; and

(b) Does not, on or after July 1, 2011, increase any fees for any enterprise fund used to subsidize the general fund except for increases described in paragraph (b) of subsection 5.

10. On or before July 1, 2012, a local government to which the provisions of subsection 9 apply shall adopt a plan to eliminate, on or before the fiscal year beginning on July 1, 2021, all transfers from any enterprise funds to subsidize the general fund that are not made in compliance with subsection 1. A copy of the plan must be filed with the Department of Taxation on or before July 15, 2012.

11. On and after July 1, 2012, the provisions of subsection 9 do not apply to a local government that fails to comply with the provisions of subsection 10.

Sec. 2. NRS 354.470 is hereby amended to read as follows:

354.470 NRS 354.470 to 354.626, inclusive, **and section 1 of this act** may be cited as the Local Government Budget and Finance Act.

Sec. 3. NRS 354.472 is hereby amended to read as follows:

354.472 1. The purposes of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** are:

(a) To establish standard methods and procedures for the preparation, presentation, adoption and administration of budgets of all local governments.

(b) To enable local governments to make financial plans for programs of both current and capital expenditures and to formulate fiscal policies to accomplish these programs.

(c) To provide for estimation and determination of revenues, expenditures and tax levies.

(d) To provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money.

(e) To provide specific methods enabling the public, taxpayers and investors to be apprised of the financial preparations, plans, policies and administration of all local governments.

2. For the accomplishment of these purposes, the provisions of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** must be broadly and liberally construed.

Sec. 4. NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive ~~†~~, **and section 1 of this act**:

(a) "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

(b) "Local government" does not include the Nevada Rural Housing Authority.

2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, **and section 1 of this act**, but any such irrigation district which levies an ad valorem tax shall comply with the filing and publication requirements of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** in addition to the requirements of chapter 539 of NRS.

3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of Taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural Utilities Service of the United States Department of Agriculture.

Sec. 5. NRS 354.476 is hereby amended to read as follows:

354.476 As used in NRS 354.470 to 354.626, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in

NRS 354.479 to 354.578, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 354.524 is hereby amended to read as follows:

354.524 "Final budget" means the budget which has been adopted by a local governing body or adopted by default as defined by NRS 354.470 to 354.626, inclusive, **and section 1 of this act** and which has been determined by the Department of Taxation to be in compliance with applicable statutes and regulations.

Sec. 7. NRS 354.594 is hereby amended to read as follows:

354.594 The Committee on Local Government Finance shall determine and advise local government officers of regulations, procedures and report forms for compliance with NRS 354.470 to 354.626, inclusive ~~†~~ , **and section 1 of this act.**

Sec. 8. NRS 354.6241 is hereby amended to read as follows:

354.6241 1. The statement required by paragraph (a) of subsection 5 of NRS 354.624 must indicate for each fund set forth in that paragraph:

(a) Whether the fund is being used in accordance with the provisions of this chapter.

(b) Whether the fund is being administered in accordance with generally accepted accounting procedures.

(c) Whether the reserve in the fund is limited to an amount that is reasonable and necessary to carry out the purposes of the fund.

(d) The sources of revenues available for the fund during the fiscal year, including transfers from any other funds.

(e) The statutory and regulatory requirements applicable to the fund.

(f) The balance and retained earnings of the fund.

2. Except as otherwise provided in NRS 354.59891 ~~†~~ **and section 1 of this act**, to the extent that the reserve in any fund set forth in paragraph (a) of subsection 5 of NRS 354.624 exceeds the amount that is reasonable and necessary to carry out the purposes for which the fund was created, the reserve may be expended by the local government pursuant to the provisions of chapter 288 of NRS.

Sec. 9. NRS 354.626 is hereby amended to read as follows:

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, **and section 1 of this act** is guilty of a misdemeanor and upon conviction thereof ceases to hold his or her office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Purchase of coverage and professional services directly related to a program of insurance which require an audit at the end of the term thereof.

(b) Long-term cooperative agreements as authorized by chapter 277 of NRS.

(c) Long-term contracts in connection with planning and zoning as authorized by NRS 278.010 to 278.630, inclusive.

(d) Long-term contracts for the purchase of utility service such as, but not limited to, heat, light, sewerage, power, water and telephone service.

(e) Contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract or contracts entered into between local government employers and employee organizations.

(f) Contracts between a local government and any person for the construction or completion of public works, money for which has been or will be provided by the proceeds of a sale of bonds, medium-term obligations or an installment-purchase agreement and that are entered into by the local government after:

(1) Any election required for the approval of the bonds or installment-purchase agreement has been held;

(2) Any approvals by any other governmental entity required to be obtained before the bonds, medium-term obligations or installment-purchase agreement can be issued have been obtained; and

(3) The ordinance or resolution that specifies each of the terms of the bonds, medium-term obligations or installment-purchase agreement, except those terms that are set forth in subsection 2 of NRS 350.165, has been adopted.

↪ Neither the fund balance of a governmental fund nor the equity balance in any proprietary fund may be used unless appropriated in a manner provided by law.

(g) Contracts which are entered into by a local government and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing fiscal year and which, under the method of accounting adopted by the local government, will be charged against an appropriation of a subsequent fiscal year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

(h) Long-term contracts for the furnishing of television or FM radio broadcast translator signals as authorized by NRS 269.127.

(i) The receipt and proper expenditure of money received pursuant to a grant awarded by an agency of the Federal Government.

(j) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing

body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

(k) The receipt by a local government of increased revenue that:

(1) Was not anticipated in the preparation of the final budget of the local government; and

(2) Is required by statute to be remitted to another governmental entity.

(l) An agreement authorized pursuant to NRS 277A.370.

Sec. 10. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, the governing body of a local government may, on or after July 1, 2011, loan or transfer money from an enterprise fund, money collected from fees imposed for the purpose for which an enterprise fund was created or any income or interest earned on money in an enterprise fund only if the loan or transfer is made:

(a) In accordance with a medium-term obligation issued by the recipient in compliance with the provisions of chapter 350 of NRS, the loan or transfer is proposed to be made and the governing body approves the loan or transfer under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and:

(1) The money is repaid in full to the enterprise fund within 5 years; or

(2) If the recipient will be unable to repay the money in full to the enterprise fund within 5 years, the recipient notifies the Committee on Local Government Finance of:

(I) The total amount of the loan or transfer;

(II) The purpose of the loan or transfer;

(III) The date of the loan or transfer; and

(IV) The estimated date that the money will be repaid in full to the enterprise fund;

(b) To pay the expenses related to the purpose for which the enterprise fund was created;

(c) For a cost allocation for employees, equipment or other resources related to the purpose of the enterprise fund which is approved by the governing body under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body; or

(d) Upon the dissolution of the enterprise fund.

2. Except as otherwise provided in this section, the governing body of a local government may increase the amount of any fee imposed for the purpose for which an enterprise fund was created only if the governing body approves the increase under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and the governing body determines that:

- (a) The increase is not prohibited by law;
- (b) The increase is necessary for the continuation or expansion of the purpose for which the enterprise fund was created; and
- (c) All fees that are deposited in the enterprise fund are used solely for the purposes for which the fees are collected.

3. Upon the adoption of an increase in any fee pursuant to subsection 2, the governing body shall, except as otherwise provided in this subsection, provide to the Department of Taxation an executed copy of the action increasing the fee. This requirement does not apply to the governing body of a federally regulated airport.

4. The provisions of subsection 2 do not limit the authority of the governing body of a local government to increase the amount of any fee imposed upon a public utility in compliance with the provisions of NRS 354.59881 to 354.59889, inclusive, for a right-of-way over any public area if the public utility is billed separately for that fee. As used in this subsection, "public utility" has the meaning ascribed to it in NRS 354.598817.

5. This section must not be construed to:

- (a) Prohibit a local government from increasing a fee or using money in an enterprise fund to repay a loan lawfully made to the enterprise fund from another fund of the local government; or
- (b) Prohibit or impose any substantive or procedural limitations on any increase of a fee that is necessary to meet the requirements of an instrument that authorizes any bonds or other debt obligations which are secured by or payable from, in whole or in part, money in the enterprise fund or the revenues of the enterprise for which the enterprise fund was created.

6. The Department of Taxation shall provide to the Committee on Local Government Finance a copy of each report submitted to the Department on or after July 1, 2011, by a county or city pursuant to NRS 354.6015. The Committee shall:

- (a) Review each report to determine whether the governing body of the local government is in compliance with the provisions of this section; and
- (b) On or before January 15 of each odd-numbered year, submit a report of its findings to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

7. A fee increase imposed in violation of this section must not be invalidated on the basis of that violation. The sole remedy for a violation of this section is the penalty provided in NRS 354.626. Any person who pays a fee for the enterprise for which the enterprise fund is created may file a complaint with the district attorney or Attorney General alleging a violation of this section for prosecution pursuant to NRS 354.626.

8. For the purposes of paragraph (c) of subsection 1, the Committee on Local Government Finance shall adopt regulations setting forth the extent to which general, overhead, administrative and similar expenses of a local government of a type described in paragraph (c) of subsection 1 may be allocated to an enterprise fund. The regulations must require that:

(a) Each cost allocation makes an equitable distribution of all general, overhead, administrative and similar expenses of the local government among all activities of the local government, including the activities funded by the enterprise fund; and

(b) Only the enterprise fund's equitable share of those expenses may be treated as expenses of the enterprise fund and allocated to it pursuant to paragraph (c) of subsection 1.

~~9. Except as otherwise provided in subsections 10 and 11, if a local government has subsidized its general fund with money from an enterprise fund for the 5 fiscal years immediately preceding the fiscal year beginning on July 1, 2011, the provisions of subsection 1 do not apply until July 1, 2021, to transfers from the enterprise fund to the general fund of the local government for the purpose of subsidizing the general fund if the local government:~~

~~—(a) Does not increase the amount of the transfers to subsidize the general fund in any fiscal year beginning on or after July 1, 2011, above the amount transferred in the fiscal year ending on June 30, 2011, except for loans and transfers that comply with the provisions of subsection 1; and~~

~~—(b) Does not, on or after July 1, 2011, increase any fees for any enterprise fund used to subsidize the general fund except for increases described in paragraph (b) of subsection 5.~~

~~10. On or before July 1, 2012, a local government to which the provisions of subsection 9 apply shall adopt a plan to eliminate, on or before the fiscal year beginning on July 1, 2021, all transfers from any enterprise funds to subsidize the general fund that are not made in compliance with subsection 1. A copy of the plan must be filed with the Department of Taxation on or before July 15, 2012.~~

~~11. On and after July 1, 2012, the provisions of subsection 9 do not apply to a local government that fails to comply with the provisions of subsection 10.~~

~~[Sec. 10.]~~ **Sec. 11.** Section 3.130 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1409, is hereby amended to read as follows:

Sec. 3.130 Department of Financial Management: Director; qualifications; duties.

1. The City Council shall establish a Department of Financial Management, the head of which is the Director of Financial Management. The Department of Financial Management may also

include such other qualified personnel as the City Manager determines are necessary properly to handle the financial matters of the City.

2. The Director of Financial Management:

(a) Must have knowledge of municipal accounting and taxation.

(b) Must have experience in budgeting and financial control.

(c) Has charge of the administration of the financial affairs of the City.

(d) Must provide a surety bond in the amount which is fixed by the City Council.

(e) Shall perform or cause to be performed on behalf of the City all of the duties and responsibilities which are imposed upon the City by NRS 354.470 to 354.626, inclusive ~~††~~, **and section 1 of this act.**

3. The City Council may establish by ordinance such regulations as it deems are necessary for the proper conduct of the Department of Financial Management and its officers and employees.

Sec. 12. The Committee on Local Government Finance shall, on or before January 1, 2012, adopt such regulations as the Committee determines to be necessary to carry out the provisions of subsection 8 of section 1 of this act.

~~†Sec. 11†~~ **Sec. 13. 1. This ~~act becomes~~ section and sections 1 to 9, inclusive, 11 and 12 of this act become** effective on July 1, 2011.

2. Section 10 of this act becomes effective on July 1, 2021.

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. 749 to Assembly Bill No. 471 amends Section 1 to provide that a loan from the enterprise fund relating to a medium-term obligation, a cost allocation for employees, equipment, or other resources, or an enterprise fund fee increase must be made with the approval of the governing body under a non-consent item that is separately listed on the agenda for a regular meeting.

It provides that the governing body, and not the Committee on Local Government Finance, may approve a fee increase associated with an enterprise fund, provided the governing body determines that all fees that are deposited in the enterprise fund are being used solely for the purposes for which the fees are collected.

The amendment requires, upon adoption of any fee increase, the governing body to provide to the Department of Taxation an executed copy of the action increasing the fee. This requirement would not apply to the governing body of a federally regulated airport.

It requires the Committee on Local Government Finance to adopt regulations setting forth the extent to which general, overhead, and administrative expenses may be allocated to an enterprise fund. These regulations must be adopted no later than January 1, 2012; and it sets forth a procedure to assist a local government that has been using an enterprise fund to subsidize their general funds for the past five years by requiring the local government to develop a plan, no later than July 1, 2012, to cease such subsidization by July 1, 2021. After July 1, 2021, no general fund subsidization shall occur.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 473.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 836.

"SUMMARY—Revises provisions governing elections. (BDR 24-1021)"

"AN ACT relating to elections; ~~amending the requirements of a declaration or acceptance of candidacy for certain offices;~~ revising the deadline for preparing and sending absent ballots to certain voters; revising the hours of operation during the final days of voter registration; ~~requiring online voter registration to remain open until midnight on the day before early voting begins;~~ requiring that complaints challenging initiatives or referenda be given priority over all other matters pending before the court, except for criminal proceedings; revising the filing deadline for candidates for the Board of the Virgin Valley Water District; making various other changes relating to elections; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Under existing law, a person declaring or accepting candidacy must declare of which political party he or she is a registered member. (NRS 293.177) Section 1 of this bill requires a person declaring or accepting candidacy to declare that he or she is currently registered as a member of a particular party.~~

Under existing law, the name of the political party of a partisan candidate must follow the name of the candidate on the ballot and the word "nonpartisan" must follow the name of a nonpartisan candidate. **Section 3** of this bill authorizes the use of abbreviations of the party name or "independent" or "nonpartisan," as applicable.

Under existing law, a person who registers to vote by mail must provide certain identification before voting at a polling place or by mail. (NRS 293.2725) **Section 4** of this bill requires that a photo identification used for this purpose shows the physical address of the person.

Under existing law, the county clerk of each county is required to prepare absent ballots for registered voters who have requested them. (NRS 293.309) **Sections 5 and 10** of this bill require the county or city clerk, as applicable, to prepare and have ready for distribution absent ballots for persons who applied for absent ballots pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., not later than 45 days before an election.

Under existing law, a county clerk is required to consider a request for an absent ballot on a form provided by the Federal Government as a request for an absent ballot for the two primary and general elections following receipt of the request. (NRS 293.313) **Sections 6 and 11** of this bill remove the requirement that the request be considered for two elections.

Sections 7 and 12 of this bill remove the requirement that counting board officers record the number of votes received by each candidate or for and against any question submitted to the electors in words and figures.

~~Existing law authorizes a county to establish a system for using a computer to register voters. (NRS 293.506) Section 8 of this bill requires a county that establishes a system for online voter registration to keep online registration open until midnight on the day before early voting begins.~~

Existing law requires that city and county clerk offices be open at certain times during the registration period. (NRS 293.560, 293C.527, 349.017, 710.153) **Sections 9, 13, 15 and 16** of this bill revise the hours of operation of the office of the city or county clerk during the registration period.

Under existing law, a complaint challenging an initiative or referendum receives priority over all criminal proceedings. (NRS 295.061) **Section 14** of this bill requires the court to give such a complaint priority over all other matters pending with the court, except for criminal proceedings.

Section 17 of this bill changes the filing deadline for candidates for election to the governing board of the Virgin Valley Water District from at least 60 days before the election to not earlier than the first Monday in March of the year in which the election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.

Under existing law, political parties are authorized to recommend three registered voters to the county clerk to act as election board officers. (NRS 293.219) **Section 18** of this bill removes that requirement.

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

Section 1. ~~NRS 293.177 is hereby amended to read as follows:~~

~~293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:~~

~~(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held not later than 5 p.m. on the second Friday after the first Monday in January; and~~

~~(b) For all other candidates, the first Monday in March of the year in which the election is to be held not later than 5 p.m. on the second Friday after the first Monday in March.~~

~~2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:~~

~~(a) For partisan office:~~

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the Party nomination for the office of, I, the

~~undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am **currently** registered as a member of the Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 21 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.~~

.....
 (Designation of name)

.....
 (Signature of candidate for office)

Subscribed and sworn to before me
 this ... day of the month of ... of the year ...

.....
 Notary Public or other person
 authorized to administer an oath

— (b) For nonpartisan office:

DECLARATION OF CANDIDACY OF FOR THE
 OFFICE OF

State of Nevada

County of

~~For the purpose of having my name placed on the official ballot as a candidate for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada;~~

~~that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.~~

.....

 (Designation of name)

.....

 (Signature of candidate for office)

Subscribed and sworn to before me
 this ... day of the month of ... of the year ...

.....

 Notary Public or other person
 authorized to administer an oath

~~3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:~~

~~—(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his or her residence; or~~

~~—(b) The candidate does not present to the filing officer:~~

~~—(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or~~

~~—(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.~~

~~4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:~~

~~(a) May not be withheld from the public; and~~

~~(b) Must not contain the social security number or driver's license or identification card number of the candidate.~~

~~5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.~~

~~6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer:~~

~~(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction; and~~

~~(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.~~

~~7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy. (Deleted by amendment.)~~

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 293.267 is hereby amended to read as follows:

293.267 1. Ballots for a general election must contain the names of candidates who were nominated at the primary election, the names of the candidates of a minor political party and the names of independent candidates.

2. Except as otherwise provided in NRS 293.2565, names of candidates must be grouped alphabetically under the title and length of term of the office for which those candidates filed.

3. Except as otherwise provided in subsection 4:

(a) Immediately following the name of each candidate for a partisan office must appear the name *or abbreviation* of his or her political party, ~~for~~ the word "independent" ~~or~~ *" or the abbreviation "IND,"* as the case may be.

(b) Immediately following the name of each candidate for a nonpartisan office must appear the word "nonpartisan" ~~or~~ *" or the abbreviation "NP."*

4. Where a system of voting other than by paper ballot is used, the Secretary of State may provide for any placement of the name *or abbreviation* of the political party, ~~for~~ the word "independent" or "nonpartisan" *or the abbreviation "IND" or "NP," as appropriate*, which clearly relates the designation to the name of the candidate to whom it applies.

5. If the Legislature rejects a statewide measure proposed by initiative and proposes a different measure on the same subject which the Governor approves, the measure proposed by the Legislature and approved by the Governor must be listed on the ballot before the statewide measure proposed by initiative. Each ballot and sample ballot upon which the measures appear must contain a statement that reads substantially as follows:

The following questions are alternative approaches to the same issue, and only one approach may be enacted into law. Please vote for only one.

Sec. 4. NRS 293.2725 is hereby amended to read as follows:

293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers by mail to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place only if the person presents to the election board officer at the polling place:

(1) A current and valid photo identification of the person ~~or~~, *which shows his or her physical address;* or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517; and

(b) May vote by mail only if the person provides to the county or city clerk:

(1) A copy of a current and valid photo identification of the person ~~or~~, *which shows his or her physical address;* or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517.

↪ ***If there is a question as to the physical address of the person, the election board officer or clerk may request additional information.***

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

(a) Registers to vote by mail and submits with an application to register to vote:

(1) A copy of a current and valid photo identification; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;

(b) Registers to vote by mail and submits with an application to register to vote a driver's license number or at least the last four digits of his or her social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in the application;

(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;

(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or

(e) Is entitled to vote otherwise than in person under any other federal law.

Sec. 5. NRS 293.309 is hereby amended to read as follows:

293.309 1. The county clerk of each county shall prepare an absent ballot for the use of registered voters who have requested absent ballots. The county clerk shall make reasonable accommodations for the use of the absent ballot by a person who is elderly or disabled, including, without limitation, by providing, upon request, the absent ballot in 12-point type to a person who is elderly or disabled.

2. The ballot must be prepared and ready for distribution to a registered voter who:

(a) Resides within the State, not later than 20 days before the election in which it is to be used; ~~for~~

(b) ~~Resides~~ ***Except as otherwise provided in paragraph (c), resides*** outside the State, not later than 40 days before a primary or general election, if possible ~~+~~; or

(c) ***Requested an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., not later than 45 days before the election.***

3. Any legal action which would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

Sec. 6. NRS 293.313 is hereby amended to read as follows:

293.313 1. Except as otherwise provided in NRS 293.272 and 293.502, a registered voter who provides sufficient written notice to the county clerk may vote an absent ballot as provided in this chapter.

2. A registered voter who:

(a) Is at least 65 years of age; or
 (b) Has a physical disability or condition which substantially impairs his or her ability to go to the polling place,
 ➡ may request an absent ballot for all elections held during the year he or she requests an absent ballot.

3. A county clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as a request for an absent ballot for the ~~two~~ primary and general elections immediately following the date on which the county clerk received the request.

4. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot which is signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State which is completed and signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

Sec. 7. NRS 293.370 is hereby amended to read as follows:

293.370 1. When all the votes have been counted, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes the candidate received. ~~{The number must be expressed in words and figures.}~~ The vote for and against any question submitted to the electors must be entered in the same manner.

2. The tally lists must show the number of votes, other than absentee votes and votes in a mailing precinct, which each candidate received in each precinct at:

(a) A primary election held in an even-numbered year; or

(b) A general election.

Sec. 8. ~~NRS 293.506 is hereby amended to read as follows:~~

~~293.506 1. A county clerk may, with approval of the board of county commissioners, establish a system for using a computer to register voters and to keep records of registration. The county clerk may, for that purpose, issue to a voter a card, bearing the signature of the voter, attesting to the voter's registration.~~

~~2. If a county establishes a system for online voter registration pursuant to subsection 1, online voter registration must remain open until midnight on the day before early voting begins. (Deleted by amendment.)~~

Sec. 9. NRS 293.560 is hereby amended to read as follows:

293.560 ~~1-1~~ Except as otherwise provided in NRS 293.502 ~~1~~, registration must close at 9 p.m. on the third Tuesday preceding any primary or general election and at 9 p.m. on the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary or general election, registration must close at 9 p.m. on the third Tuesday preceding the day of the elections.

~~2. The~~ :

1. *For a primary or special election, the* office of the county clerk must be open ~~from 9 a.m. to 5 p.m. and from~~ *until* 7 p.m. ~~to 9 p.m., including Saturdays,~~ during the last 2 days ~~before the close of~~ *on which* registration ~~is~~ according to the following schedule:

~~(a)~~ *is open*. In a county whose population is less than 100,000, the office of the county clerk ~~must be open during the last day before registration closes.~~

~~(b) In all other counties, the office of the county clerk must be open during the last 5 days before registration closes.~~ *may close at 5 p.m. during the last 2 days before registration closes if approved by the board of county commissioners.*

2. *For a general election:*

(a) *In a county whose population is less than 100,000, the office of the county clerk must be open until 7 p.m. during the last 2 days on which registration is open. The office of the county clerk may close at 5 p.m. if approved by the board of county commissioners.*

(b) *In a county whose population is 100,000 or more, the office of the county clerk must be open during the last 4 days on which registration is open, according to the following schedule:*

(1) *On weekdays until 9 p.m.; and*

(2) *A minimum of 8 hours on Saturdays, Sundays and legal holidays.*

3. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The county clerk of each county shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the county indicating:

(1) The day *and time* that registration will be closed; and

(2) If the county clerk has designated a county facility pursuant to NRS 293.5035, the location of that facility.

➤ If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

4. The offices of the county clerk, a county facility designated pursuant to NRS 293.5035 and other ex officio registrars may remain open on the last Friday in October in each even-numbered year.

5. For the period beginning on the fifth Sunday preceding any primary or general election and ending on the third Tuesday preceding any primary or general election, an elector may register to vote only by appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035.

6. A county facility designated pursuant to NRS 293.5035 may be open during the periods described in this section for such hours of operation as the county clerk may determine, as set forth in subsection 3 of NRS 293.5035.

Sec. 10. NRS 293C.305 is hereby amended to read as follows:

293C.305 1. The city clerk shall prepare an absent ballot for the use of registered voters who have requested absent ballots. The city clerk shall make reasonable accommodations for the use of the absent ballot by a person who is elderly or disabled, including, without limitation, by providing, upon request, the absent ballot in 12-point type to a person who is elderly or disabled.

2. The ballot must be prepared and ready for distribution to a registered voter who :

(a) *Except as otherwise provided in paragraph (b)*, resides within or outside this State, not later than 20 days before the election in which it will be used.

(b) *Requested an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., not later than 45 days before the election.*

3. Any legal action that would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

Sec. 11. NRS 293C.310 is hereby amended to read as follows:

293C.310 1. Except as otherwise provided in NRS 293.502 and 293C.265, a registered voter who provides sufficient written notice to the city clerk may vote an absent ballot as provided in this chapter.

2. A city clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as:

(a) A request for the primary city election and the general city election unless otherwise specified in the request; and

(b) A request for an absent ballot for the ~~two~~ primary and general elections immediately following the date on which the city clerk received the request.

3. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates any provision of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot that is signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State that is completed and signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

Sec. 12. NRS 293C.372 is hereby amended to read as follows:

293C.372 When all the votes have been counted, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes the candidate received. ~~{The number must be expressed in words and figures.}~~ The vote for and against any question submitted to the electors must be entered in the same manner.

Sec. 13. NRS 293C.527 is hereby amended to read as follows:

293C.527 ~~{1.}~~ Except as otherwise provided in NRS 293.502 ~~{, registration must close at 9 p.m. on the third Tuesday preceding any primary city election or general city election and at 9 p.m. on the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary city election or general city election, registration must close at 9 p.m. on the third Tuesday preceding the day of the elections.~~

~~—2.—The}~~ :

1. For a primary city election or special city election, the office of the city clerk must be open ~~{from 9 a.m. to 5 p.m. and from}~~ **until 7 p.m.** ~~{to 9 p.m., including Saturdays,}~~ during the last 2 days ~~{before the close of registration before a primary city election or general city election, according to the following schedule:~~

~~—(a) In a city whose population is less than 25,000, the office of the city clerk must be open during the last 3 days before registration closes.~~

~~—(b) In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 5 days before registration closes.}~~ **on which registration is open. In a city whose population is less than 25,000, the office of the city clerk may close at 5 p.m. if approved by the governing body of the city.**

2. For a general election:

(a) In a city whose population is less than 25,000, the office of the city clerk must be open until 7 p.m. during the last 2 days on which registration is open. The office of the city clerk may close at 5 p.m. if approved by the governing body of the city.

(b) In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 4 days on which registration is open, according to the following schedule:

(1) On weekdays until 9 p.m.; and

(2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.

3. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The city clerk of each city shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the city indicating:

(1) The day *and time* that registration will be closed; and

(2) If the city clerk has designated a municipal facility pursuant to NRS 293C.520, the location of that facility.

➔ If no newspaper is of general circulation in that city, the publication may be made in a newspaper of general circulation in the nearest city in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

4. For the period beginning on the fifth Sunday preceding any primary city election or general city election and ending on the third Tuesday preceding any primary city election or general city election, an elector may register to vote only by appearing in person at the office of the city clerk or, if open, a municipal facility designated pursuant to NRS 293C.520.

5. A municipal facility designated pursuant to NRS 293C.520 may be open during the periods described in this section for such hours of operation as the city clerk may determine, as set forth in subsection 3 of NRS 293C.520.

Sec. 14. NRS 295.061 is hereby amended to read as follows:

295.061 1. Except as otherwise provided in subsection 3, whether an initiative or referendum embraces but one subject and matters necessarily connected therewith and pertaining thereto, and the description of the effect of an initiative or referendum required pursuant to NRS 295.009, may be challenged by filing a complaint in the First Judicial District Court not later than 15 days, Saturdays, Sundays and holidays excluded, after a copy of the petition is placed on file with the Secretary of State pursuant to NRS 295.015. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 15 days after the complaint is filed and shall give priority to such a complaint over all *other matters pending with the court, except for* criminal proceedings.

2. The legal sufficiency of a petition for initiative or referendum may be challenged by filing a complaint in district court not later than 7 days, Saturdays, Sundays and holidays excluded, after the petition is certified as sufficient by the Secretary of State. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 15 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

3. If a description of the effect of an initiative or referendum required pursuant to NRS 295.009 is challenged successfully pursuant to subsection 1 and such description is amended in compliance with the order of the court, the amended description may not be challenged.

Sec. 15. NRS 349.017 is hereby amended to read as follows:

349.017 1. If the bond question is submitted at a general election, no notice of registration of electors is required other than that required by the laws for a general election.

2. If the bond question is submitted at a special election, the clerk of each county shall cause to be published, at least once a week for 2 consecutive weeks by two weekly insertions a week apart, the first publication to be not more than 50 days nor less than 42 days next preceding the election, in a newspaper published within the county, if any is so published, and having a general circulation therein, a notice signed by him or her to the effect that registration for the special election will be closed on a date *and time* designated therein, as provided in this section.

3. Except as otherwise provided in subsection 4, the office of the county clerk in each county of this State must be open for such a special election, from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. on Mondays through Fridays, with Saturdays, Sundays and legal holidays excepted, for the registration of any qualified elector.

4. The office of the county clerk must be open ~~from 9 a.m. to 5 p.m. and from 7 p.m. to 9 p.m. on Monday through Saturday, with Sundays and any legal holidays excepted,~~ during the last days of registration as provided in subsection ~~1~~ **1** of NRS 293.560.

5. The office of the county clerk must be open for registration of voters for such a special election up to but excluding the 30th day next preceding that election and during regular office hours.

Sec. 16. NRS 710.153 is hereby amended to read as follows:

710.153 1. If the question of the sale or lease of the county-owned telephone system is submitted at a general election, no notice of registration of electors is required other than that required by the general election laws for such election. If the question is submitted at a special election, the county clerk shall cause to be published at least once a week for 5 consecutive weeks by five weekly insertions a week apart, the first publication to be not more than 60 days nor less than 45 days next preceding the election, in a newspaper published within the county and having a general circulation therein, a notice signed by the county clerk to the effect that registration for the special election will be closed on a date *and time* designated therein, as provided in this section.

2. Except as otherwise provided in this subsection, the office of the county clerk must be open for such a special election from 9 a.m. to 12 m. and from 1 p.m. to 5 p.m. on Mondays through Fridays, with Saturdays, Sundays and legal holidays excepted, for the registration of any qualified elector. ~~During the 5 days preceding the close of registration before such a special election, the~~ **The** office of the county clerk must be open ~~from 9 a.m. to 5 p.m. and from 7 p.m. to 9 p.m. on Monday through Saturday, with Sunday and any legal holidays excepted,~~ **during the last days of registration as provided in subsection 1 of NRS 293.560.**

3. The office of the county clerk must be opened for registration of voters for the special election from and including the 20th day next preceding the election and up to but excluding the 10th day next preceding the election and during regular office hours.

Sec. 17. Section 8 of the Virgin Valley Water District Act, being chapter 100, Statutes of Nevada 1993, at page 165, is hereby amended to read as follows:

Sec. 8. District Elections.

1. Unless otherwise required for purposes of an election to incur an indebtedness, the Registrar of Voters of Clark County shall conduct, supervise and, by ordinance, regulate all district elections in accordance, as nearly as practicable, with the general election laws of this state, including, but not limited to, laws relating to the time of opening and closing of polls, the manner of conducting the election, the canvassing, announcement and certification of results and the preparation and disposition of ballots.

2. ~~At least 90 days before the election, the Registrar of Voters of Clark County shall publish notice of the election.~~ Each candidate for election to the Board must file a declaration of candidacy with the Registrar of Voters ~~at least 60 days before the election.~~ ***not earlier than the first Monday in March of the year in which the election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.*** Timely filing of such declaration is a prerequisite to election.

3. If the board establishes various election areas within the District and there are two or more seats upon the board to be filled at the same election, each of which represents the same election area, the two candidates therefor receiving the highest number of votes, respectively, are elected.

4. If a member of the Board is unopposed in seeking reelection, the Board may declare that member elected without a formal election, but that member may not participate in the declaration.

5. If no person files candidacy for election to a particular seat upon the Board, the seat must be filled in the manner provided in subsection 4 of section 7 of this act for filling a vacancy.

Sec. 18. NRS 293.219 is hereby repealed.

Sec. 19. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

293.219 Recommendations by political parties of persons for service on election board.

1. Not less than 60 days before a primary or a general election, the county central committee of each major political party for each county may recommend to the county clerk of the county three registered voters for each precinct in the county to act as election board officers of the primary or general election in the precinct or district.

2. Not less than 60 days before a general election, the executive committee of each minor political party for each county may recommend to the county clerk of the county three registered voters for each precinct in the county to act as election board officers of the general election in the precinct or district.

3. After that date the county clerk may accept recommendations for reserve election board officers for the election.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Assembly Bill No. 473 relates to elections. Amendment No. 691 deletes the provisions that require a county election official who maintains an online voter registration system to remain open until midnight on the day before early voting begins; and establishes an effective date upon passage and approval of the bill.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 53, 78, 80, 258, 549, be taken from the General File and placed on the General File on the next agenda.

Motion carried.

Senator Wiener moved that Assembly Bill No. 508 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Horsford moved for this legislative day, that all necessary rules be suspended, and that all bills and joint resolutions returned from reprint, be declared emergency measures under the Constitution and immediately placed on third reading and final passage, time permitting.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 60.

Bill read third time.

Roll call on Senate Bill No. 60:

YEAS—21.

NAYS—None.

Senate Bill No. 60 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 421

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 421 be taken from the General File and placed on the next legislative agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 426.

Bill read third time.

Roll call on Senate Bill No. 426:

YEAS—21.

NAYS—None.

Senate Bill No. 426 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 437.

Bill read third time.

Roll call on Senate Bill No. 437:

YEAS—21.

NAYS—None.

Senate Bill No. 437 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 440.

Bill read third time.

Roll call on Senate Bill No. 440:

YEAS—21.

NAYS—None.

Senate Bill No. 440 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 443.

Bill read third time.

Roll call on Senate Bill No. 443:

YEAS—21.

NAYS—None.

Senate Bill No. 443 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 446.

Bill read third time.

Roll call on Senate Bill No. 446:

YEAS—21.

NAYS—None.

Senate Bill No. 446 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 2.

Bill read third time.

Roll call on Assembly Bill No. 2:

YEAS—21.

NAYS—None.

Assembly Bill No. 2 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 81.

Bill read third time.

Roll call on Assembly Bill No. 81:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads,
Roberson, Settelmeyer—10.

Assembly Bill No. 81 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 117.

Bill read third time.

Roll call on Assembly Bill No. 117:

YEAS—21.

NAYS—None.

Assembly Bill No. 117 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 136.

Bill read third time.

Remarks by Senators Roberson, Copenig, Wiener, Brower, Parks,
Gustavson and Schneider.

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

SENATOR ROBERSON:

Thank you, Mr. President. We heard this bill in Senate Judiciary. I think everyone needs to
know that this bill guts truth in sentencing in this State. It frees felons early. If you are okay with
that, then vote "yes." I am voting "no."

SENATOR COPENING:

Assembly Bill No. 136 allows credits earned by a category B felony offender for educational
achievement and good behavior to apply to the offender's eligibility for parole, unless the
offender was convicted as a habitual criminal, of a crime involving the use of force or violence,
of felony driving under the influence, or of a sexual offense.

Additionally, the credits do not apply to the offender's eligibility for parole if the offender has served three or more separate terms of imprisonment for three separate felony convictions in Nevada, is serving a sentence for which an additional penalty was imposed for use of a firearm, and is serving a sentence for being a felon in possession of a firearm. The bill requires the credits to be deducted from the minimum term, until the offender becomes eligible for parole, and from the maximum term.

This measure is effective on January 1, 2012, and applies retroactively to January 1, 2005, to reduce the minimum term of an offender in custody on the effective date, and to January 1, 2011, to reduce the maximum term of an offender placed on parole before the effective date.

SENATOR WIENER:

Thank you, Mr. President.

Since the truth in sentencing provision was passed in 1995, and particularly since the passage of Assembly Bill No. 510 of the 74th Legislative Session, the Legislature has taken positions to address the provision and to change the laws about truth in sentencing. Those were legislative decisions made during different legislative sessions.

For clarification, the credits allow the inmate earlier access to a Parole Board hearing. This does not, in any way, assure that the person would be paroled.

There are several exceptions to anyone who would even be eligible. If a firearm was used in the offense, they would not be eligible. If the inmate has been convicted three times, though not an habitual offender, he or she would be ineligible.

Several people testified and collaborated on the amendment we, as a Senate body, supported yesterday.

SENATOR ROBERSON:

My concern with this bill is that, today in this State, the public does not know, the victims do not know, how long a felon is going to serve in prison based on the minimum sentence that a judge assigns to them. Because of so many credits given on the front end, someone could be sentenced to a punishment for three to ten years. We do not know, and in many cases, we learn later that the felon will not serve the minimum of three years.

After the hearing in Senate Judiciary, I had a retired judge approach me. He was furious about this bill. He told me that right now judges do not know, when they sentence criminals, what Parole and Probation is going to do as far as giving credits. They cannot be certain that when they sentence a felon to prison that the prisoner will serve the minimum assigned sentence. This bill exacerbates the problem. For the first time in a long time, this bill allows good time credits and other credits to be taken off the minimum sentence for a felon. This is bad policy. I ask you to oppose this bill.

SENATOR BROWER:

Thank you, Mr. President. I rise in opposition to this bill. My colleague from Clark District No. 5 is correct. This is not a step in the right direction with respect to truth in sentencing in our State. We do not have much truth in sentencing currently. There is not time enough left in the Session to address that issue. I hope that future Legislatures will. Compared to the federal system where when a judge sentences an offender, everyone, the offender, the victim, knows exactly how much time that person is going to do, or not do. The judge can sentence to probation. Everyone knows after sentencing exactly what the sentence will be.

In our State system, it is a mystery. I would encourage a future Legislature to work on making it more clear. This bill takes us back a step or two and makes it less clear. I urge your opposition.

SENATOR PARKS:

I rise in support of Assembly Bill No. 136. We do have a significant budget crisis. Nevada is a State that spends far more dollars on incarceration than most other states. We are at the top of the list, per capita.

On average, inmates in Nevada serve much longer sentences than inmates in other states. My colleague from southern Nevada stated that Assembly Bill No. 510 was passed in 2007. The experience we have found from that, in budget savings and in that the program has worked well, which underlies the argument for passage of Assembly Bill No. 136. I encourage your support.

SENATOR GUSTAVSON:

I rise in opposition to Assembly Bill No. 136. We are in a financial crisis in this State, it costs the State more money, but what about the citizens? Many of these offenders, when released, reoffend. We all know that. The recidivism rate is too high. We are working on getting that down. To let these people out sooner to commit crimes again, is wrong. It is going to hurt the citizens. It is going to cost tax payers more money in the long run. They will go back into the court system again, hire attorneys and it is bad policy to let these people out early. I urge you to vote against this bill.

SENATOR SCHNEIDER:

Thank you, Mr. President. I stand in support of this. I support my colleague from District No. 7. I was here in this house when Senator James chaired Judiciary. We systematically enhanced every crime in this State. We were tough on crime. The Senator from District No. 7 pointed that out. We have a higher incarceration rate, a longer time, than any other state. We have put ourselves in a jackpot. Now, we are paying for that and we are paying dearly. I stand in support of this.

Roll call on Assembly Bill No. 136:

YEAS—10.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, Lee, McGinness, Rhoads, Roberson, Settelmeyer—11.

Assembly Bill No. 136 having failed to receive a constitutional majority, Mr. President declared it lost.

Assembly Bill No. 152.

Bill read third time.

Roll call on Assembly Bill No. 152:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Assembly Bill No. 152 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 199.

Bill read third time.

Remarks by Senators Hardy, Schneider and Kieckhefer.

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

SENATOR HARDY:

Thank you, Mr. President. The summary to this bill is interesting in that it talked about the practice of pharmacy, but it is really an issue of a scope of practice. This practice of medicine is a collaborative practice. This bill would allow a pharmacist to implement and modify drug therapy. It seems as if this bill is asking the pharmacist to become a physician assistant or a nurse practitioner. That person may not have the clinical, albeit, the scientific training in pharmacology. I have nothing against pharmacists, but the physician, physician assistant and the nurse practitioner have reached a certain level of expertise.

Initials are important. I saw M.D. on the side of a used ambulance that had been converted into a plumbing truck. That is how I see the "Rx" usage. This is what we use for a symbol for a treatment or a prescription. I have issues with the bill and will not be supporting it.

SENATOR SCHNEIDER:

A person operating a business that is not required to be licensed by the Board may use the letters "Rx" with the Board's approval. The Board must not unreasonably deny approval but approval may be withheld if the use of the letters is confusing or misleading or threatens public health or safety.

A plumbing truck with "Rx" on the side is not confusing to the public. The Rehab Lounge with "Rx" at the Hard Rock is not confusing to the public. I do not think RxRealty is confusing to the public. I am not going to go there to get a prescription filled. The Board will make their own rules. That is why the effective date of this October 1, 2011. They have time to put together their rules on this. The Pharmacy Board is in full support of this bill and the amendment.

SENATOR KIECKHEFER:

Thank you, Mr. President. Was there a discussion in Committee as to whether the change that will allow a pharmacist to modify a drug therapy will anyway change their insurance requirements? Will they have to start to carry medical malpractice insurance or is it any different from what they are carrying now. What are the implications?

SENATOR SCHNEIDER:

Thank you, Mr. President. There was no discussion about malpractice insurance. I know that people often go to multiple doctors. The intent of this bill is that the pharmacist could make or suggest changes. In other countries, Mexico, for instance, the doctors give the patient written directions and the pharmacist decides what medication to give the patient. We rely heavily on pharmacists. We are trying to have the pharmacist more involved than just giving a patient 30 pills and sending you home. He can check to make certain that all the medications you are on are not conflicting.

Roll call on Assembly Bill No. 199:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settlemeyer—9.

Assembly Bill No. 199 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Manendo moved that Assembly Bill No. 204 be taken from the General File and placed on the General File on the next agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 212.

Bill read third time.

Roll call on Assembly Bill No. 212:

YEAS—21.

NAYS—None.

Assembly Bill No. 212 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 232.

Bill read third time.

Roll call on Assembly Bill No. 232:

YEAS—21.

NAYS—None.

Assembly Bill No. 232 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 240.

Bill read third time.

Roll call on Assembly Bill No. 240:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads,
Settelmeyer—9.

Assembly Bill No. 240 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 242.

Bill read third time.

Roll call on Assembly Bill No. 242:

YEAS—21.

NAYS—None.

Assembly Bill No. 242 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 257.

Bill read third time.

Roll call on Assembly Bill No. 257:

YEAS—21.

NAYS—None.

Assembly Bill No. 257 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 265.

Bill read third time.

Roll call on Assembly Bill No. 265:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads,
Roberson, Settelmeyer—10.

Assembly Bill No. 265 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 273.

Bill read third time.

The following amendment was proposed by Senators Wiener and Roberson:

Amendment No. 824.

"SUMMARY—Revises provisions ~~governing deficiencies existing after foreclosure sales and sales in lieu of foreclosure sales,~~ **relating to real property.** (BDR 3-561)"

"AN ACT relating to real property; revising provisions governing the amount which a person holding a junior lien on real property may recover in a civil action under certain circumstances; prohibiting certain persons holding a junior lien on certain residential property from bringing a civil action under certain circumstances; revising provisions governing the amount of a deficiency judgment after the foreclosure of a mortgage or a deed of trust; limiting the amount of certain judgments against guarantors, sureties or other obligors of obligations secured by real property under certain circumstances; **revising provisions governing mortgages and deeds of trust;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. Existing law requires a judgment creditor or beneficiary of a deed of trust to bring an action for such a deficiency judgment within 6 months after the foreclosure sale or trustee's sale. For an obligation secured by a mortgage or deed of trust on or after October 1, 2009, a court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the creditor or beneficiary is a financial institution; (2) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (3) the debtor or grantor used the loan to purchase the property; (4) the debtor or grantor occupied the property continuously after obtaining the loan; and (5) the debtor or grantor did not refinance the loan. (NRS 40.455)

Sections 3, 3.3 and 5.7 of this bill enact similar provisions to govern deficiency judgments sought by junior lienholders after a foreclosure sale, a trustee's sale or any sale or deed in lieu of a foreclosure sale or trustee's sale. **Section 3** provides that, if the circumstances prohibiting a deficiency judgment after a foreclosure sale or trustee's sale under current law exist with respect to a junior lienholder, the creditor may not bring a civil action to recover the debt owed to it after a foreclosure sale, a trustee's sale or a sale or deed in lieu of a foreclosure sale or trustee's sale.

Existing law authorizes a creditor under an obligation secured by a junior mortgage or deed of trust to bring an action to obtain a personal judgment against the debtor only if the action is commenced within 6 years after the date of the debtor's default. (NRS 11.190) Under **sections 3.3 and 5.7** of this

bill, if the real property securing such an obligation is the subject of a foreclosure sale, a trustee's sale or a sale or deed in lieu of such a sale, the creditor may bring an action to obtain a personal judgment against the debtor only if the action is brought within 6 months after the foreclosure sale, the trustee's sale or the sale in lieu of a foreclosure sale or trustee's sale.

Under existing law, the amount of a deficiency judgment after a foreclosure sale or a trustee's sale may not exceed the lesser of: (1) the amount of the indebtedness minus the fair market value of the foreclosed property at the time of the sale; or (2) the amount of the indebtedness minus the amount for which the foreclosed property actually sold. (NRS 40.459) **Section 5** of this bill provides that, for a deficiency judgment sought by a secured creditor after a foreclosure sale, trustee's sale or sale in lieu of a foreclosure sale or trustee's sale, the amount of the deficiency judgment must be reduced by the amount of any insurance proceeds received by, or payable to, the creditor. **Section 2** of this bill enacts a corresponding provision for money judgments sought against a debtor by a junior lienholder after a foreclosure sale, a trustee's sale or a sale or deed in lieu of a foreclosure sale or trustee's sale.

Sections 2 and 5 also limit the recovery of a creditor who acquired the right to obtain payment for an obligation secured by the real property from another person who owned that obligation. If the creditor is seeking a deficiency judgment after a foreclosure sale, a trustee's sale or a sale in lieu of a foreclosure sale or trustee's sale, **section 5** provides that the creditor may not receive an amount which exceeds the lesser of: (1) the consideration paid for the obligation minus the fair market value of the property at the time of the foreclosure sale, with interest from the date of sale and reasonable costs; or (2) the consideration paid for the obligation minus the amount for which the property actually sold, with interest from the date of sale and reasonable costs. If the creditor is a junior lienholder who filed a civil action to obtain a money judgment against the debtor, **section 2** provides that the creditor may not receive an amount greater than the consideration paid for the obligation, with interest from the date on which the person acquired the right to obtain payment and reasonable costs.

Section 5.5 of this bill limits the amount of a judgment against a guarantor, surety or other obligor, other than a mortgagor or grantor of a deed of trust, in an action commenced before a foreclosure sale or trustee's sale to enforce the obligation to pay, satisfy or purchase all or part of an obligation secured by a mortgage or other lien on real property. Under **section 5.5**, the amount of the judgment may not exceed the lesser of: (1) the amount of the indebtedness minus the fair market value of the real property at the time of the commencement of the action; or (2) if a foreclosure sale or a trustee's sale is completed before the date on which judgment is entered, the amount of the indebtedness minus the amount for which the foreclosed property actually sold.

Section 6 of this bill provides that the amendatory provisions of: (1) sections 1-3 apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this bill; (2) sections 3.3 and 5.7 apply only to an action commenced after a foreclosure sale or sale in lieu of a foreclosure sale that occurs on or after July 1, 2011; and (3) section 5.5 apply only to an action against a guarantor, surety or other obligor commenced on or after the effective date of this bill. Under section 7 of this bill, the amendatory provisions of section 5 become effective upon passage and approval and thus apply to a deficiency judgment awarded on or after that effective date.

Section 6 of Assembly Bill No. 284 of this session requires the trustee under a deed of trust to be: (1) an attorney licensed in this State; (2) a title insurer or title agent authorized to do business in this State; or (3) a person licensed as a trust company or exempt from the requirement to be licensed as a trust company. Section 5.8 of this bill amends section 6 of Assembly Bill No. 284 of this session: (1) to authorize any foreign or domestic entity which holds a current state business license to be the trustee under a deed of trust; and (2) to specifically describe certain persons who are exempt from the requirement to obtain a license as a trust company and who are authorized to be the trustee under a deed of trust. Sections 5.9 and 5.95 of this bill change the effective date of Assembly Bill No. 284 of this session from July 1, 2011, to October 1, 2011.

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

Section 1. Chapter 40 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2 to 3.3, inclusive, of this act.

Sec. 1.2. *As used in sections 1.2 to 3.3, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.4, 1.6 and 1.8 of this act have the meanings ascribed to them in those sections.*

Sec. 1.4. *"Foreclosure sale" has the meaning ascribed to it in NRS 40.462.*

Sec. 1.6. *"Mortgage or other lien" has the meaning ascribed to it in NRS 40.433.*

Sec. 1.8. *"Sale in lieu of a foreclosure sale" means a sale of real property pursuant to an agreement between a person to whom an obligation secured by a mortgage or other lien on real property is owed and the debtor of that obligation in which the sales price of the real property is insufficient to pay the full outstanding balance of the obligation and the costs of the sale. The term includes, without limitation, a deed in lieu of a foreclosure sale.*

Sec. 2. 1. *If a person to whom an obligation secured by a junior mortgage or lien on real property is owed:*

(a) Files a civil action to obtain a money judgment against the debtor under that obligation after a foreclosure sale or a sale in lieu of a foreclosure sale; and

(b) Such action is not barred by NRS 40.430,

↪ in determining the amount owed by the debtor, the court shall not include the amount of any proceeds received by, or payable to, the person pursuant to an insurance policy to compensate the person for losses incurred with respect to the property or the default on the obligation.

2. If:

(a) A person acquired the right to enforce an obligation secured by a junior mortgage or lien on real property from a person who previously held that right;

(b) The person files a civil action to obtain a money judgment against the debtor after a foreclosure sale or a sale in lieu of a foreclosure sale; and

(c) Such action is not barred by NRS 40.430,

↪ the court shall not render judgment for more than the amount of the consideration paid for that right, plus interest from the date on which the person acquired the right and reasonable costs.

3. As used in this section, "obligation secured by a junior mortgage or lien on real property" includes, without limitation, an obligation which is not currently secured by a mortgage or lien on real property if the obligation:

(a) Is incurred by the debtor under an obligation which was secured by a mortgage or lien on real property; and

(b) Has the effect of reaffirming the obligation which was secured by a mortgage or lien on real property.

Sec. 3. 1. A person to whom an obligation secured by a junior mortgage or lien on real property is owed may not bring any action to enforce that obligation after a foreclosure sale of the real property which secured that obligation or a sale in lieu of a foreclosure sale if:

(a) The person is a financial institution;

(b) The real property which secured the obligation is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or sale in lieu of a foreclosure sale;

(c) The debtor or grantor used the amount of the obligation to purchase the real property;

(d) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the obligation; and

(e) The debtor or grantor did not refinance the obligation after securing it.

2. As used in this section, "financial institution" has the meaning ascribed to it in NRS 363A.050.

Sec. 3.3. A civil action not barred by NRS 40.430 or section 3 of this act by a person to whom an obligation secured by a junior mortgage or lien

on real property is owed to obtain a money judgment against the debtor after a foreclosure sale of the real property or a sale in lieu of a foreclosure sale may only be commenced within 6 months after the date of the foreclosure sale or sale in lieu of a foreclosure.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 40.459 is hereby amended to read as follows:

40.459 1. After the hearing, the court shall award a money judgment against the debtor, guarantor or surety who is personally liable for the debt. The court shall not render judgment for more than:

~~1-1~~ (a) The amount by which the amount of the indebtedness which was secured exceeds the fair market value of the property sold at the time of the sale, with interest from the date of the sale; ~~for~~

~~2-1~~ (b) The amount which is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured, with interest from the date of sale ~~1-1~~; or

(c) *If the person seeking the judgment acquired the right to obtain the judgment from a person who previously held that right, the amount by which the amount of the consideration paid for that right exceeds the fair market value of the property sold at the time of sale or the amount for which the property was actually sold, whichever is greater, with interest from the date of sale and reasonable costs,*

↪ whichever is the lesser amount.

2. *For the purposes of this section, the "amount of the indebtedness" does not include any amount received by, or payable to, the judgment creditor or beneficiary of the deed of trust pursuant to an insurance policy to compensate the judgment creditor or beneficiary for any losses incurred with respect to the property or the default on the debt.*

Sec. 5.5. NRS 40.495 is hereby amended to read as follows:

40.495 1. The provisions of NRS 40.475 and 40.485 may be waived by the guarantor, surety or other obligor only after default.

2. Except as otherwise provided in subsection ~~4-1~~ 5, a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, may waive the provisions of NRS 40.430. If a guarantor, surety or other obligor waives the provisions of NRS 40.430, an action for the enforcement of that person's obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon real property may be maintained separately and independently from:

- (a) An action on the debt;
- (b) The exercise of any power of sale;
- (c) Any action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby; and
- (d) Any other proceeding against a mortgagor or grantor of a deed of trust.

3. If the obligee maintains an action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby, the

guarantor, surety or other obligor may assert any legal or equitable defenses provided pursuant to the provisions of NRS 40.451 to 40.463, inclusive.

4. *If, before a foreclosure sale of real property, the obligee commences an action against a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, to enforce an obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon the real property:*

(a) *The court must hold a hearing and take evidence presented by either party concerning the fair market value of the property as of the date of the commencement of the action. Notice of such hearing must be served upon all defendants who have appeared in the action and against whom a judgment is sought, or upon their attorneys of record, at least 15 days before the date set for the hearing.*

(b) *After the hearing, if the court awards a money judgment against the debtor, guarantor or surety who is personally liable for the debt, the court must not render judgment for more than:*

(1) *The amount by which the amount of the indebtedness exceeds the fair market value of the property as of the date of the commencement of the action; or*

(2) *If a foreclosure sale is concluded before a judgment is entered, the amount that is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured, ➡ whichever is the lesser amount.*

5. The provisions of NRS 40.430 may not be waived by a guarantor, surety or other obligor if the mortgage or lien:

(a) Secures an indebtedness for which the principal balance of the obligation was never greater than \$500,000;

(b) Secures an indebtedness to a seller of real property for which the obligation was originally extended to the seller for any portion of the purchase price;

(c) Is secured by real property which is used primarily for the production of farm products as of the date the mortgage or lien upon the real property is created; or

(d) Is secured by real property upon which:

(1) The owner maintains the owner's principal residence;

(2) There is not more than one residential structure; and

(3) Not more than four families reside.

6. As used in this section, "foreclosure sale" has the meaning *ascribed to it in NRS 40.462.*

Sec. 5.7. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, **and section 3.3 of this act**, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without the owner's fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution or other lender of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his or her official capacity and in virtue of his or her office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his or her official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his or her official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 5.8. Section 6 of Assembly Bill No. 284 of this session is hereby amended to read as follows:

Sec. 6. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The trustee under a deed of trust must be:

(a) An attorney licensed to practice law in this State;

(b) A title insurer or title agent authorized to do business in this State pursuant to chapter 692A of NRS; ~~for~~

(c) A person licensed pursuant to chapter 669 of NRS ~~for a~~ person exempt from the provisions of chapter 669 of NRS pursuant to paragraph (a) or (h) of subsection 1 of NRS 669.080.1.

(d) A domestic or foreign entity which holds a current state business license issued by the Secretary of State pursuant to chapter 76 of NRS;

(e) A person who does business under the laws of this State, the United States or another state relating to banks, savings banks, savings and loan associations or thrift companies;

(f) A person who is appointed as a fiduciary pursuant to NRS 662.245;

(g) A person who acts as a registered agent for a domestic or foreign corporation, limited-liability company, limited partnership or limited-liability partnership;

(h) A person who acts as a trustee of a trust holding real property for the primary purpose of facilitating any transaction with respect to real estate if he or she is not regularly engaged in the business of acting as a trustee for such trusts;

(i) A person who engages in the business of a collection agency pursuant to chapter 649 of NRS; or

(j) A person who engages in the business of an escrow agency, escrow agent or escrow officer pursuant to the provisions of chapter 645A or 692A of NRS.

2. A trustee under a deed of trust must not be the beneficiary of the deed of trust for the purposes of exercising the power of sale pursuant to NRS 107.080.

3. A trustee under a deed of trust must not:

(a) Lend its name or its corporate capacity to any person who is not qualified to be the trustee under a deed of trust pursuant to subsection 1.

(b) Act individually or in concert with any other person to circumvent the requirements of subsection 1.

4. A beneficiary of record may replace its trustee with another trustee. The appointment of a new trustee is not effective until the substitution of trustee is recorded in the office of the recorder of the county in which the real property is located.

5. The trustee does not have a fiduciary obligation to the grantor or any other person having an interest in the property which is subject to the deed of trust. The trustee shall act impartially and in good faith with respect to the deed of trust and shall act in accordance with the laws of this State. A rebuttable presumption that a trustee has acted impartially and in good faith exists if the trustee acts in compliance with the provisions of NRS 107.080. In performing acts required by NRS 107.080, the trustee incurs no liability for any good faith error resulting from reliance on information provided by the beneficiary regarding the nature and the amount of the default under the obligation secured by the deed of trust if the trustee corrects the good faith error not later than 20 days after discovering the error.

6. If, in an action brought by a grantor, a person who holds title of record or a beneficiary in the district court in and for the county in which the real property is located, the court finds that the trustee did not comply with this section, any other provision of this chapter or any applicable provision of chapter 106 or 205 of NRS, the court must award to the grantor, the person who holds title of record or the beneficiary:

(a) Damages of \$5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) Reasonable attorney's fees and costs,

↪ unless the court finds good cause for a different award.

Sec. 5.9. Section 14.5 of Assembly Bill No. 284 of this session is hereby amended to read as follows:

Sec. 14.5. The amendatory provisions of:

1. Section 1 of this act apply only to an assignment of a mortgage of real property, or of a mortgage of personal property or crops recorded before March 27, 1935, and any assignment of the beneficial interest under a deed of trust, which is made on or after ~~July~~ **October** 1, 2011.

2. Section 2 of this act apply only to an instrument by which any mortgage or deed of trust of, lien upon or interest in real property is subordinated or waived as to priority which is made on or after ~~July~~ **October** 1, 2011.

3. Section 5 of this act apply only to an instrument encumbering a borrower's real property to secure future advances from a lender within a mutually agreed maximum amount of principal, or an amendment to such an instrument, which is made on or after ~~July~~ **October** 1, 2011.

4. Section 9 of this act apply only to a notice of default and election to sell which is recorded pursuant to NRS 107.080, as amended by section 9 of this act, on or after ~~July~~ **October** 1, 2011.

Sec. 5.95. Section 15 of Assembly Bill No. 284 of this session is hereby amended to read as follows:

Sec. 15. This act becomes effective on ~~July~~ **October** 1, 2011.

Sec. 6. The amendatory provisions of:

1. Sections 1 to 3, inclusive, of this act apply only to an obligation secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this act.

2. Sections 3.3 and 5.7 of this act apply only to an action commenced after a foreclosure sale or sale in lieu of a foreclosure sale that occurs on or after July 1, 2011.

3. Section 5.5 of this act apply only to an action against a guarantor, surety or other obligor commenced on or after the effective date of this act.

Sec. 7. 1. This section and sections 1 to 3, inclusive, 5, 5.5 and **5.8 to 6, inclusive,** of this act become effective upon passage and approval.

2. Sections 3.3 and 5.7 of this act become effective on July 1, 2011.

Senator Wiener moved the adoption of the amendment.

Remarks by Senators Wiener, Schneider and Roberson.

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

SENATOR WIENER:

This amendment revises Section 6 of Assembly Bill No. 284 that requires the trustee under a deed of trust to be an attorney licensed in Nevada, a title insurer or title agent authorized to do business in Nevada, or person licensed as a trust company or otherwise exempt from the requirement to be a licensed trust company in this State.

Amendment No. 824 expands those provisions in Assembly Bill No. 284 so that a trustee under a deed of trust may be a domestic or foreign entity which holds a current state business license or certain persons who are exempt from having to obtain a license as a trust company but are authorized to be a trustee under a deed of trust. They include a person who does business relating to banks, savings and loan associations, or thrift companies, a person appointed as fiduciary, a trustee of a trust that is holding real property for the purpose of facilitation real estate transaction or a registered agent, collection agency or escrow agency.

Lastly, the amendment revises the effective date of Assembly Bill No. 284 from July 1, 2011 to October 1, 2011.

SENATOR SCHNEIDER:

Could someone explain this amendment and its intent more than the floor statement?

SENATOR ROBERSON:

Thank you, Mr. President. The purpose of this amendment is to clean up some things that were missed on Assembly Bill No. 284 which passed this house and has been signed by the Governor.

In Section 5.8 of the amendment, it revises Section 6 of Assembly Bill No. 284. It clarifies who can act as a trustee under a deed of trust for a residential property. There was a concern that there were certain small, family owned businesses in this State that would have been put out of business by Assembly Bill No. 284. We want to make certain this does not happen. This clarifies Assembly Bill No. 284 so we do not put businesses out of business.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 277.

Bill read third time.

Roll call on Assembly Bill No. 277:

YEAS—21.

NAYS—None.

Assembly Bill No. 277 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 291.

Bill read third time.

Remarks by Senators Wiener, Brower and Roberson.

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

SENATOR WIENER:

Assembly Bill No. 291 relates to an agreement between an heir finder and an apparent heir regarding the recovery of property in an estate for which the public administrator has petitioned for letters of administration. The bill provides that such an agreement is void and unenforceable if it was entered into during the period beginning with the death of the person whose estate is in probate and ending 90 days after the filing of a petition for letters of administration.

We had an amendment on this bill that took it from 180 days. There was a lot of negotiation. We felt the appropriate compromise was 90 days.

SENATOR BROWER:

Could the Chair of the Committee explain the reason behind the statutory delay of 90 days?

SENATOR WIENER:

Up to this point, there has been no timeline assigned to this kind of transaction. One of the concerns of the public administrators during testimony was their desire to have an appropriate amount of time to find heirs. In terms of public policy, this allows the public administrators the opportunity to do the necessary search. The bill started with a 180 day timeline. With the sponsor's approval, 90 days was deemed an appropriate compromise.

SENATOR BROWER:

Are the public administrators of the State in support of this bill?

SENATOR WIENER:

They wanted the 180 days, but they compromised with 90 days.

SENATOR ROBERSON:

Thank you, Mr. President.

This was a four to three vote in the Committee. Three of us felt 90 days was far too long. It should have been 30 days. That is why we voted "no" and why I will continue to vote "no."

Roll call on Assembly Bill No. 291:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 291 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 294.

Bill read third time.

Remarks by Senators Wiener and Kieckhefer.

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

SENATOR WIENER:

Assembly Bill No. 294 authorizes mobile gaming to be conducted in any area of an establishment that holds a non-restricted gaming license and operates at least 100 slot machines. The bill removes the authority of the Nevada Gaming Commission to regulate independent contractors that manufacture certain property related to gaming. It also makes it unlawful for a person to knowingly distribute any gaming device, system, or related equipment from Nevada to any other jurisdiction where the use of such items is illegal. Finally, this bill clarifies that a computer system associated with mobile gaming may be located outside a licensed gaming establishment but must be located within this State.

SENATOR KIECKHEFER:

Thank you, Mr. President. Does the bill allow for gaming in private rooms of the hotel, or is it only in public areas of the gaming establishment?

SENATOR WIENER:

Current law allows mobile gaming in several public areas in a gaming establishment. This would allow it to be carried on anywhere in the footprint of the property. If you were to go across the street, it is programmed in such a way that you could not do it anywhere outside the footprint.

Years back, I had great hesitation about the mischief that could occur in rooms with underage patrons. Technology has moved forward substantially since that original bill passed. I feel comfortable that those safeguards are built in, even during the time of playing the game. Electronic safeguards will allow those who own the mobile gaming devices to check at any time to see if the appropriate person is using the device. This bill expands current law to allow use of the mobile device anywhere on the property including rooms.

Roll call on Assembly Bill No. 294:

YEAS—21.

NAYS—None.

Assembly Bill No. 294 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 301.

Bill read third time.

Remarks by Senators Parks, Hardy, Brower, Settlemeyer and Leslie.

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

SENATOR PARKS:

Assembly Bill No. 301 removes all exceptions to the restoration of the right to vote for a person who has been convicted of a felony if the person has completed his or her prison sentence and has been released from prison; the person received an honorable discharge from parole or probation; the person's records have been sealed by a court; or the person was granted a pardon.

The bill also prohibits a county clerk from requiring a person seeking to register to vote to provide documentation indicating that the person's right to vote has been restored, and provides an appeal process for a person whose voter registration application has been denied or whose voter registration has been cancelled on the grounds that the person has been convicted of a felony or has not had his or her right to vote restored. Further, the bill revises procedures for a clerk, district attorney, or court to follow upon receipt of a challenge providing that a person is not eligible to vote because the person has been convicted of a felony and has not had his or her right to vote restored.

The bill restores the civil right to vote to any person who was honorably discharged from probation or parole, was granted a pardon with restoration of the right to vote, or had completed a sentence prior to July 1, 2011. The bill does not require that notification be given to these persons of the restoration of their civil right to vote.

SENATOR HARDY:

Thank you, Mr. President. I rise in support of Assembly Bill No. 301. I appreciate the ACLU representative who worked with me on this.

In 2003, I worked with Assemblywoman Giunchigliani extending the rights to vote for former felons. I decided I did not want to have class A felons restored their right to vote. I appreciated the ability and the opportunity for Ms. Gasca to help me understand some of this and appreciate her working through this with me.

I sought guidance in scriptural references such as, Peter, when he said things are unclean. What the Lord told him was, "that which I have cleansed, call thee not common." I remembered about forgiving all men and the sacred right of voting in Exodus 24:23, and Acts 15:25, "in remembering not your sins" Hebrews 8:12, "rendering unto Caesar," I think is applicable because these people have paid their debt to society as heinous as their crime may have been. I recognize that I, being imperfect, still struggle with judging not and still judging unrighteously. I would counsel the people, who are not yet able to vote, that they look at Daniel 3:16 through 3:18 and recognize that, but if not, they still have an opportunity to do this.

SENATOR BROWER:

Thank you, Mr. President. This concept came up in the form of a bill several years ago while I was in the Assembly. My position, then, was, and still is, that those who have been convicted of felonies and who have paid their debt to society by doing prison time or by serving a term on probation, should be encouraged to, upon rejoining society, become productive citizens again, including, being voting members of the public, but they should have to apply for that restoration of that right. That right should not be difficult to obtain once again. However, they should have to apply for it. I will oppose this bill.

SENATOR HARDY:

The application that could be counted towards this could be the State of Nevada voter registration application. In box number 11, it says, "I am not laboring under any felony conviction or other loss of civil rights that it would make it unlawful for me to vote. I declare under penalty of perjury that the foregoing is true and correct." Then the person is allowed to sign the form. The person is, with the passage of this bill, affirming that he is no longer under felony conviction or loss of such civil rights. He would be applying to have the sacred privilege of voting rights.

SENATOR SETTELMAYER:

Thank you, Mr. President. We had testimony during the hearing on elections and procedures. One of the issues and concerns that I had was that this process is the same regardless of the level of the crime. I believe certain felonies are more egregious than others. We had a bill in this house earlier this year that created a felony for torturing a dog. However, if all felons are lumped together in the same category, even those who have done mayhem by cutting off someone's arm is treated the same as for a lesser crime. I do not think we should treat all felons the same. That is why I do not support this legislation. Also, in talking to my county clerk, it was indicated to me that the shifting of the burden of checking to the clerks to prove that individuals have already done all they can do to regain their rights, would be a costly process. For those reasons, I oppose this bill.

SENATOR PARKS:

The language in this bill is intended to be clean-up language. It is supposed to reduce confusion. It would allow county clerks to more easily perform their task. This bill takes away the challenge requirement that a county clerk or registrar would have. It provides for the process to be more streamlined, including the creation of several new forms. This is going to be a much simpler process for everyone to follow.

SENATOR LESLIE:

I want to concur with my colleague from southern Nevada. I had a constituent I was trying to assist with the process after we passed a previous bill in this body. It is extremely complicated. This bill sets out a much better process. There is an issue of basic fairness. After someone has paid their debt to society, they should be entitled to have their voting rights restored. I urge passage of this measure.

Roll call on Assembly Bill No. 301:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Roberson, Settelmeyer—8.

Assembly Bill No. 301 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 322.

Bill read third time.

Remarks by Senators Manendo and Lee.

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

SENATOR MANENDO:

Assembly Bill No. 322 revises the qualifications for the member of the Board of Wildlife Commissioners who is appointed based on conservation involvement. The measure also gives the Governor greater discretion in appointing the Director of the Department of Wildlife by removing a requirement that the Governor choose from nominees provided by the Board of Wildlife Commissioners.

I would like to mention my thoughts on one of the members of the Commission. There is a gentleman who currently serves on the Commission who feels he has been the target of this particular piece of legislation. We all know him to be a gentleman, a caring, loving Nevadan and I hope there will be a place for him whether in this role or in another role in the near future on the Commission. I know he cares passionately about our State.

I urge adoption of this bill.

SENATOR LEE:

As to the gentleman sitting on the Board now, it would be wise, not to start the practice of tearing people away from their responsibilities until their terms have ended. I am certain this bill will pass. It is a good piece of legislation. I would like to ask that we could continue on with this Board until the next term limits take place.

Roll call on Assembly Bill No. 322:

YEAS—20.

NAYS—Rhoads.

Assembly Bill No. 322 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 328.

Bill read third time.

Roll call on Assembly Bill No. 328:

YEAS—21.

NAYS—None.

Assembly Bill No. 328 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 337.

Bill read third time.

Roll call on Assembly Bill No. 337:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settlemeyer—10.

Assembly Bill No. 337 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 360.

Bill read third time.

Roll call on Assembly Bill No. 360:

YEAS—21.

NAYS—None.

Assembly Bill No. 360 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 374.

Bill read third time.

Roll call on Assembly Bill No. 374:

YEAS—20.

NAYS—Halseth.

Assembly Bill No. 374 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 376.

Bill read third time.

Roll call on Assembly Bill No. 376:

YEAS—21.

NAYS—None.

Assembly Bill No. 376 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 379.

Bill read third time.

Roll call on Assembly Bill No. 379:

YEAS—21.

NAYS—None.

Assembly Bill No. 379 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 384.

Bill read third time.

Roll call on Assembly Bill No. 384:

YEAS—16.

NAYS—Breedon, Gustavson, Halseth, Manendo, Settlemeyer—5.

Assembly Bill No. 384 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 388.

Bill read third time.

Remarks by Senator Roberson.

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

Assembly Bill No. 388 makes specific changes to the notice of default sent to the grantor or the person who holds the title of record in a foreclosure sale. The notice must include a statement that the grantor has a right to seek foreclosure mediation, and it must include appropriate contact information for the Foreclosure Mediation Program and the Division of Mortgage Lending in the Department of Business and Industry.

Roll call on Assembly Bill No. 388:

YEAS—21.

NAYS—None.

Assembly Bill No. 388 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 413.

Bill read third time.

Roll call on Assembly Bill No. 413:

YEAS—21.

NAYS—None.

Assembly Bill No. 413 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 433.

Bill read third time.

Remarks by Senator Parks.

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

Assembly Bill No. 433 makes it unlawful for public employers and labor organizations to make rules and regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office. The measure also makes it unlawful for private employers, public employers, and labor organizations to take any adverse employment action against an employee as a result of the employee becoming a candidate for public office. An exception is provided for public employees with respect to meeting federal law requirements.

Roll call on Assembly Bill No. 433:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Assembly Bill No. 433 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 463.

Bill read third time.

Roll call on Assembly Bill No. 463:

YEAS—21.

NAYS—None.

Assembly Bill No. 463 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 504.

Bill read third time.

Roll call on Assembly Bill No. 504:

YEAS—21.

NAYS—None.

Assembly Bill No. 504 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 5.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 5:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 5 having received a constitutional majority,
Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 6.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 6:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 6 having received a constitutional majority,
Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Leslie, Kihuen and Kieckhefer as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 264.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 259, 292, 323, 414, be taken from Unfinished Business and placed on Unfinished Business on the next agenda.

Motion carried.

Senator Horsford moved that the Senate recess until 6 p.m.
Motion carried.

Senate in recess at 1:57 p.m.

SENATE IN SESSION

At 6:37 p.m.
President Krolicki presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 358, 390, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 489, 528, 530, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were re-referred Senate Bills Nos. 164, 168, 276, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

STEVEN A. HORSFORD, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 23, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 89, 96, 111, 134, 225, 322, 337.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, May 29, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 59, 142, 436

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 300, 525.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 99, Amendment No. 723; Senate Bill No. 101, Amendment No. 659; Senate Bill No. 125, Amendment No. 760; Senate Bill No. 136, Amendments Nos. 724, 811; Senate Bill No. 143, Amendment No. 722; Senate Bill No. 150, Amendment No. 734; Senate Bill No. 200, Amendment No. 720; Senate Bill No. 223, Amendment No. 681; Senate Bill No. 215, Amendment No. 719; Senate Bill No. 233, Amendment No. 699; Senate Bill No. 257, Amendment No. 794; Senate Bill No. 309, Amendment No. 683; Senate Bill No. 361, Amendment No. 614; Senate Bill No. 402, Amendment No. 740; Senate Bill No. 403, Amendment No. 739, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 592 to Assembly Bill No. 17; Senate Amendment No. 707 to Assembly Bill No. 122; Senate Amendment No. 692 to Assembly Bill No. 501.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Ocegüera, Horne and Goicoechea as a Conference Committee concerning Assembly Bill No. 282.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved to reconsider the vote whereby Assembly Bill No. 136 this day failed.

Remarks by Senator Lee.

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

After talking with people in the Attorney General's office, I realized that this bill does not let people out of prison early; it just gives them a chance to get to the Parole Board faster. Therefore, I would like to hear this bill on Third Reading again.

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

Senate in recess at 6:42 p.m.

SENATE IN SESSION

At 6:48 p.m.

President Krolicki presiding.

Quorum present.

Remarks by Senator Lee.

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

I want to thank the Senator from Clark District No. 5 for giving me additional information on this bill. I feel the Parole Board can handle the situation. I respect his desire that criminals pay their price.

Motion carried on a division of the house.

Senator Lee moved that Assembly Bill No. 223 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

Senator Lee moved that Assembly Bill No. 410 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

Senator Wiener moved that Assembly Bill No. 528 be taken from the Second Reading File and placed on the Second Reading File on the next legislative day.

Motion carried.

Senator Wiener moved that Assembly Bills Nos. 78, 351 be taken from the General File and placed on the General File on the next agenda.

Motion carried.

Senator Breeden moved that Assembly Bill No. 53 be taken from the General File and placed on the Secretary's desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 501—AN ACT relating to local improvements; authorizing the creation of an event facility district in certain counties; providing for the financing of event facilities and other local projects; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 300.

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

Motion carried.

Assembly Bill No. 525.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 358.

Bill read second time and ordered to third reading.

Assembly Bill No. 390.

Bill read second time and ordered to third reading.

Assembly Bill No. 489.

Bill read second time and ordered to third reading.

Assembly Bill No. 530.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that for this legislative day, that all necessary rules be suspended, and that all bills and joint resolutions returned from reprint, be declared emergency measures under the Constitution, and immediately place on Third Reading and final passage, time permitting.

GENERAL FILE AND THIRD READING

Senate Bill No. 164.

Bill read third time.

Roll call on Senate Bill No. 164:

YEAS—10.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Schneider, Settlemeyer—11.

Senate Bill No. 164 having failed to receive a two-thirds majority, Mr. President declared it lost.

Senate Bill No. 168.

Bill read third time.

Roll call on Senate Bill No. 168:

YEAS—21.

NAYS—None.

Senate Bill No. 168 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 276.

Bill read third time.

Remarks by Senators Parks and McGinness.

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

SENATOR PARKS:

Thank you, Mr. President. Senate Bill No. 276 revises provisions governing a safe and respectful learning environment in public schools. This is a follow up-bill to a number of bills passed over the last decade including the cyber-bullying bill passed last session. This bill is modeled after the much acclaimed legislation that was passed at the beginning of this year by the state of New Jersey. I recommend everyone support this bill.

SENATOR MCGINNESS:

Thank you, Mr. President. Bullying is a problem. I support all efforts to stop that. But, again, this is another mandate to school districts. We should let the local school districts have that option. I will oppose the bill.

Roll call on Senate Bill No. 276:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Rhoads, Roberson, Settlemeyer—9.

Senate Bill No. 276 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 421.

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 421 be moved to the General File on the next agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 80.

Bill read third time.

The following amendment was proposed by Senator Parks:

Amendment No. 845.

"SUMMARY—Makes various changes relating to the Public Employees' Benefits Program. (BDR 23-496)"

"AN ACT relating to the Public Employees' Benefits Program; making various changes relating to the Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Board of the Public Employees' Benefits Program is required to submit various reports concerning the administration and operation of the Program. (NRS 287.043, 287.04366) **Sections 3, 8 and 14** of this bill make the Executive Officer of the Program, rather than the Board, responsible for submitting such reports.

Under existing law, if a retired public officer or employee of the State or a local governmental agency, or the surviving spouse of such a retired officer or employee, who was formerly covered by health insurance provided under the Program, or under a plan offered by the local governmental employer, reinstates such insurance, the reinstated insurance excludes coverage for certain preexisting conditions during the first 12 months after such reinstatement. (NRS 287.0205, 287.0475) **Sections 4.5 and 12** of this bill eliminate the exclusion for certain preexisting conditions as called for in the Patient Protection and Affordable Care Act. (Pub. L. No. 111-148, 124 Stat. 119) **Section 12** also prohibits a public officer or employee who retired from a local governmental agency, or his or her surviving spouse, ~~for domestic partner,~~ from reinstating health insurance under the Program if the Board has adopted regulations that exclude such persons from participation in the Program because they are eligible for health coverage from a health and welfare plan or trust that arose out of certain collective bargaining agreements or under certain federal laws.

Under existing law, a state agency is required to pay to the Program a certain amount to pay a portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. State officers and employees are required to pay the remaining portion of the costs of their coverage as well as the full amount of covering their dependents under the Program. The Board is authorized to allocate the money paid by the state agency between the costs of coverage for such officers and employees and for their dependents. (NRS 287.044) **Section 9** of this bill clarifies the manner in which the Board may perform the allocation.

Existing law provides for the payment of a subsidy to cover a portion of the costs of coverage under the Program for certain retired state officers and employees. (NRS 287.046) **Section 10** of this bill clarifies that employees who are initially hired by the State on or after January 1, 2010, are not entitled to the subsidy for coverage under the Program if they retire with less than 15 years of service, which must include state service and may include local governmental service, with the exception of disabled retirees, or if they fail to maintain continuous coverage under the Program during retirement.

Section 6 of this bill clarifies the application of this provision to persons who retire from employment with local governmental agencies.

Existing law provides that if a state officer or employee or a dependent of a state officer or employee incurs medical costs that are payable under the Program, but for which a third person has the legal liability to pay, the Board is subrogated to the rights of the officer, employee or dependent and may commence, join or intervene in any legal action against the third person to enforce that legal liability. (NRS 287.0465) **Section 11** of this bill extends this provision to apply to any person who participates in the Program, including retired, as well as active, officers and employees of the State and their dependents and to active and retired officers and employees of local governments and their dependents who are covered under the Program.

Existing law provides that the surviving spouse and any surviving child of a police officer or firefighter who was killed in the line of duty are eligible to obtain or continue coverage under the Program or a benefits plan established by his or her local governmental employer under certain circumstances. The public employer of the police officer or firefighter, or the State of Nevada in the case of a volunteer firefighter, is required to pay the entire cost of the coverage for the surviving spouse for life and the entire cost of the coverage for any surviving child at least until the child reaches 18 years of age and until the child reaches 23 years of age so long as the child is a full-time student. (NRS 287.021, 287.0477) ~~{Sections 5 and 13 of this bill provide that neither the public employer nor the State is required to pay the cost of the coverage for the surviving domestic partner of such a police officer or firefighter.}~~ **Sections 5 and 13** ~~also~~ of this bill codify that the duration of the coverage for the surviving children of police officers and firefighters killed in the line of duty is the same as the duration of coverage for children otherwise in the public employer's health care plan.

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

Section 1. Chapter 287 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~["Domestic partner" has the meaning ascribed to it NRS 122A.030.]~~ (Deleted by amendment.)

Sec. 3. 1. *The Executive Officer shall submit a report regarding the administration and operation of the Program to the Board and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature or, if the Legislature is not in regular session, to the Legislative Commission and the Interim Retirement and Benefits Committee of the Legislature created by NRS 218E.420. The report must include, without limitation:*

(a) An audited financial statement of the Program Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(b) An audited financial statement of the Retirees' Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(c) A report of the utilization of the Program by participants during the immediately preceding plan year, segregated by benefit, administrative cost, active employees and retirees, including, without limitation, an assessment of the actuarial accuracy of reserves.

(d) Material provided generally to participants or prospective participants in connection with enrollment in the Program for the current plan year, including, without limitation:

(1) Information regarding rates and the costs for participation in the Program paid by participants on a monthly basis; and

(2) A summary of the changes in the plan design for the current plan year from the plan design for the immediately preceding plan year.

2. The Executive Officer shall submit a biennial report to the Board and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:

(a) An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

(b) A biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits. The review must be conducted by an attorney who specializes in employee benefits.

Sec. 4. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in ~~subparagraph (2) of~~ paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

➤ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~Reinstatement~~ ***If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement*** of insurance pursuant to subsection 1 ~~excludes~~ ***may exclude*** claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

5. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 4.5. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

➔ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement of insurance pursuant to subsection 1 may exclude claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.~~

~~5.1~~ The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 5. NRS 287.021 is hereby amended to read as follows:

287.021 1. Except as otherwise provided in subsection 3, the surviving spouse ~~or surviving domestic partner~~ and any surviving child of a police officer or firefighter who was:

(a) Employed by a local governmental agency that had established group insurance, a plan of benefits or medical and hospital service pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; and

(b) Killed in the line of duty,

→ may elect to accept or continue coverage under that group insurance, plan or medical and hospital service if the police officer or firefighter was a participant or would have been eligible to participate in the group insurance, plan or medical and hospital service on the date of the death of the police officer or firefighter. If the surviving spouse ~~or surviving domestic partner~~ or child elects to accept coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter would have been eligible to participate or to discontinue coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter was a participant, the spouse, ~~domestic partner~~ child or legal guardian of the child must notify in writing the local governmental agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. ~~The~~ ***Except as otherwise provided in ~~this section and~~ NRS 287.023, the*** local governmental agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the group insurance, plan of benefits or medical and hospital service for the surviving spouse or child who meets the requirements set forth in subsection 1.

3. A surviving spouse ~~or surviving domestic partner~~ is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse ~~or surviving domestic partner~~. A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~the~~

~~(a) The age of 18 years; or~~

~~(b) The age of 23 years, if the child is enrolled as a full-time student in an accredited university, college or trade school.~~ ***the age at which the child would not otherwise be eligible to receive coverage under the group insurance, plan of benefits or medical and hospital service.***

4. ~~A local governmental agency is not required to pay the entire cost of health care benefits pursuant to subsection 2 for a surviving domestic partner who meets the requirements set forth in subsection 1.~~

~~5.~~ As used in this section "police officer" has the meaning ascribed to it in NRS 617.135.

Sec. 6. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, during the period in which the person served as an officer or employee, was eligible to be covered or had dependents who were eligible to

be covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage to the extent that such coverage is not provided to the officer or employee or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and any dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or coverage under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for *retired* persons who ~~for~~:

~~— (1) Were initially hired before January 1, 2010, and who retire and are covered under the Program pursuant to subsection 1 or who subsequently reinstate coverage under the Program pursuant to NRS 287.0205; or~~

~~— (2) Are initially hired on or after January 1, 2010, and who retire with:~~

~~— (I) At least 15 years of service credit, which must include local governmental service and may include state service, and who have participated in the Program on a continuous basis since their retirement from such employment; or~~

~~— (II) At least 5 years of service credit, which must include local governmental service and may include state service, who do not have at least 15 years of service credit to qualify under sub-subparagraph (I) as a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education.~~
 ➔ as the State pays pursuant to ~~subsection 1 of~~ NRS 287.046 for persons retired with state service who participate in the ~~Public Employees' Benefits~~ Program.

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 7. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, ~~and sections 2 and section 3 of this act~~, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.04064, inclusive, ~~and section 2 of this act~~ have the meanings ascribed to them in those sections.

Sec. 8. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include a program relating to group life, accident or health insurance, or any combination of these; and

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,
 ➔ for the benefit of all state officers and employees and other persons who participate in the Program.

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired

officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that wishes to obtain exclusive group insurance for all of its active and retired officers and employees and their dependents, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h), by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(c) Except as otherwise provided in paragraph (d), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

(d) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change the participant's policy of health insurance.

(e) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

(f) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

(g) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.010 to 287.245, inclusive, ~~and sections 21 and section 3 of this act~~, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into and exit from the Program by local governmental agencies pursuant to paragraph (a) of subsection 1 of NRS 287.025, which:

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency whose last continuous period of enrollment with the Program began after November 30, 2008, terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186;

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants;

(4) Specific procedures for the determination of contested claims;

(5) Procedures for review and notification of the termination of coverage of persons pursuant to paragraph (b) of subsection 4 of NRS 287.023; and

(6) Procedures for the payments that are required to be made pursuant to paragraph (b) of subsection 4 of NRS 287.023.

~~{(i) Appoint an independent certified public accountant. The accountant shall:~~

~~—(1) Provide an annual audit of the Program; and~~

~~—(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~—(j) Appoint an attorney who specializes in employee benefits. The attorney shall:~~

~~—(1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and~~

~~—(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~—3. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:~~

~~—(a) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:~~

~~—(1) Participants who are active and retired state officers and employees and their dependents;~~

~~—(2) All participants in the Program other than those described in subparagraph (1); and~~

~~—(3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are provided coverage for medical or hospital service, or both, by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.~~

~~—(b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.~~

~~—(c) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.~~

~~—(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.~~

~~—(e) A discussion of activities of the Board concerning purchasing coalitions.~~

~~—4.} 3.~~ The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

~~{5.} 4.~~ The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

~~{6.} 5.~~ A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

~~{7.} 6.~~ As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 9. NRS 287.044 is hereby amended to read as follows:

287.044 1. Except as otherwise provided in subsection 2, each participating state agency shall pay to the Program an amount specified by law for every state officer or employee who is employed by a participating public agency on a permanent and full-time basis and elects to participate in the Program.

2. A member of the Senate or Assembly who elects to participate in the Program shall pay the entire premium or contribution for the member's insurance.

3. State officers and employees who elect to participate in the Program must authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the payment of such a premium or contribution must be based on the actual amount of the premium or contribution after deducting any amount ~~of the premium or contribution which is paid~~ **allocated by the Board** pursuant to subsection ~~4.1~~ **6**.

4. If a state officer or employee chooses to cover any dependents, whenever this option is made available by the Board, except as otherwise provided in NRS 287.021 and 287.0477, the state officer or employee must pay the difference between the amount of the premium or contribution for the coverage for the state officer or employee and such dependents and ~~the~~ **any** amount ~~paid by the participating state agency that employs the officer or employee~~ **allocated by the Board pursuant to subsection 6**.

5. A participating state agency shall not pay any part of those premiums or contributions if the group life insurance or group accident or health insurance is not approved by the Board.

6. The Board may allocate the money paid to the Program pursuant to ~~this section~~ **subsection 1** between the cost of premiums and contributions for group insurance for each state officer or employee, except a member of the Senate or Assembly, and the dependents of each state officer or employee.

Sec. 10. NRS 287.046 is hereby amended to read as follows:

287.046 1. The Department of Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service ~~. before January 1, 1994, or under the circumstances set forth in paragraph (a), (b) or (c) of subsection 3.~~

2. The money assessed pursuant to subsection 1 must be deposited into the Retirees' Fund and must be based upon ~~an~~ **a base** amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for ~~such retirees~~ **persons who retired before January 1, 1994, or for persons who retire on or after January 1, 1994, as adjusted by subsection 3**. Except as otherwise provided in subsection ~~4.1~~ **5**, the portion to be paid to the Program from the Retirees' Fund on behalf of such persons must be equal to a portion of the cost for each retiree and the retiree's dependents who are enrolled in the plan, as defined for each year of the plan by the Program.

3. ~~Adjustments~~ **Except as otherwise provided in subsection 4, adjustments** to the portion **of the amount approved by the Legislature pursuant to subsection 2 to be** paid by the Retirees' Fund ~~must be as follows:~~

~~—(a) For~~ **for** persons who retire on or after January 1, 1994, with state service ~~†~~

~~—(1)†~~ **must be as follows:**

(a) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.

~~†(2)†~~ (b) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.

~~†(b) For persons who are†~~

4. No money may be paid by the Retirees' Fund on behalf of a retired person who is initially hired by the State on or after January 1, 2010, and who ~~†retire with at least 15 years of service credit, which must include state service and may include local governmental service, and who have†~~ :

(a) **Has not** participated in the Program on a continuous basis since ~~†their†~~ retirement from such employment ~~†, for each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~—(c) For persons who are initially hired by the State on or after January 1, 2010, and who retire with at least 5 years of service credit, which must include state service and may include local governmental service, who do† ; or~~

(b) **Does** not have at least 15 years of service ~~†credit to qualify under paragraph (b) as†~~ , **which must include state service and may include local governmental service, unless the retired person does not have at least 15 years of service as** a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education, and ~~†who have†~~ **has** participated in the Program on a continuous basis since ~~†their†~~ retirement from such employment . ~~†~~

~~—(1) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.~~

~~—(2) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the~~

~~Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~4.1~~ 5. If the amount calculated pursuant to subsection 3 exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Program Fund.

~~5.1~~ 6. For the purposes of subsection ~~4.1~~ 3:

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of ~~state~~ service.

~~6.1~~ 7. The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and the retired participant's dependents to the retired participant and to the retired participant's dependents who elect to continue coverage under the Program after the retired participant's death.

Sec. 11. NRS 287.0465 is hereby amended to read as follows:

287.0465 1. If ~~an officer or employee of the State or a dependent of such an officer or employee~~ **a member** incurs an illness or injury for which medical services are payable under the plan for self-insurance established by the Board and the illness or injury is incurred under circumstances creating a legal liability in some person, other than the ~~officer, employee or dependent,~~ **member**, to pay all or part of the cost of those services, the Board is subrogated to the right of the ~~officer, employee or dependent~~ **member** to the extent of all such costs, and may join or intervene in any action by the ~~officer, employee or dependent~~ **member** or any ~~successors~~ **successor** in interest, to enforce that legal liability.

2. If ~~an officer, employee or dependent~~ **a member** or any ~~successors~~ **successor** in interest fail or refuse to commence an action to enforce that legal liability, the Board may commence an independent action, after notice to the ~~officer, employee or dependent~~ **member** or any ~~successors~~ **successor** in interest, to recover all costs to which it is entitled. In any such action by the Board, the ~~officer, employee or dependent~~ **member** may be joined as a third party defendant.

3. If the Board is subrogated to the rights of the ~~officer, employee or dependent~~ **member** or any ~~successors~~ **successor** in interest as provided in subsection 1, the Board has a lien upon the total proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of a judgment or settlement or otherwise. Within 15 days after recovery by receipt of the proceeds of the judgment, settlement or other recovery, the ~~officer, employee or dependent~~ **member** or any successors in interest shall notify the Board of the recovery and pay the Board the amount due to it pursuant to this section. The ~~officer, employee or dependent~~ **member** or any successors in interest are not entitled to double recovery for the same injury.

4. The ~~{officer, employee or dependent}~~ **member** or any successors in interest shall notify the Board in writing before entering any settlement or agreement or commencing any action to enforce the legal liability referred to in subsection 1.

5. *As used in this section, "member" means:*

(a) An active or retired officer or employee of the State or a dependent of such an officer or employee who is covered under the Program; and

(b) An active or retired officer or employee of a local governmental agency or a dependent of such an officer or employee who is covered under the Program.

Sec. 12. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A retired public officer or employee or the surviving spouse ~~{or surviving domestic partner}~~ of a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee retired:

(a) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from a participating state agency or was enrolled in a retirement program provided pursuant to NRS 286.802; or

(b) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement ~~{}~~, ***unless the retired public officer or employee is excluded from participation in the Program pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.***

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice to the Program of the intent of the public officer or employee or surviving spouse ~~{or surviving domestic partner}~~ to reinstate the insurance not later than March 15 of an even-numbered year;

(b) Accepting the Program's current plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in NRS 287.046, paying any portion of the premiums or contributions for coverage under the Program, in the manner set forth in NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

~~{3. Reinstatement of insurance excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.}~~

Sec. 13. NRS 287.0477 is hereby amended to read as follows:

287.0477 1. Except as otherwise provided in subsection 4, the surviving spouse ~~{or surviving domestic partner}~~ and any surviving child of a

police officer or firefighter who was employed by a participating public agency and who was killed in the line of duty may join or continue coverage under the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 if the police officer or firefighter was a participant or would have been eligible to participate on the date of the death of the police officer or firefighter. If the surviving spouse ~~f, surviving domestic partner~~ or child elects to join or discontinue coverage under the Public Employees' Benefits Program pursuant to this subsection, the spouse, ~~fdomestic partner~~ child or legal guardian of the child must notify in writing the participating public agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. Except as otherwise provided in subsection 4, the surviving spouse ~~f, surviving domestic partner~~ and any surviving child of a volunteer firefighter who was killed in the line of duty and who was officially a member of a volunteer fire department in this State is eligible to join the Public Employees' Benefits Program. If such a spouse ~~f, domestic partner~~ or child elects to join the Public Employees' Benefits Program, the spouse, ~~fdomestic partner~~ child or legal guardian of the child must notify in writing the Board within 60 days after the date of death of the volunteer firefighter.

3. ~~The fExcept as otherwise provided in this section, the~~ participating public agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 for the surviving spouse or child who meets the requirements set forth in subsection 1. The State of Nevada shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program for the surviving spouse or child who elects to join the Public Employees' Benefits Program pursuant to subsection 2.

4. A surviving spouse ~~for surviving domestic partner~~ is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse. ~~for surviving domestic partner~~ A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~f~~—(a) The age of 18 years; or
—(b) The age of 23 years, if the child is enrolled as a full time student in an accredited university, college or trade school. ~~f~~ ***the age at which the child would not otherwise be eligible to receive coverage under the Public Employees' Benefits Program.***

5. ~~fA participating public agency and the State of Nevada are not required to pay the entire cost of health care benefits pursuant to subsection 3 for a surviving domestic partner who elects to join the Public Employees' Benefits Program pursuant to subsection 2.~~

~~6.~~ As used in this section "police officer" has the meaning ascribed to it in NRS 617.135.

Sec. 14. NRS 287.04366 is hereby repealed.

Sec. 15. 1. This section and sections 4 and 12 of this act become effective on July 1, 2011.

2. Sections 1, 2, 3, 5 to 11, inclusive, 13 and 14 of this act become effective on October 1, 2011.

3. Section 4.5 of this act becomes effective on the date on which the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, cease to allow a grandfathered health plan to exclude claims for preexisting medical conditions.

TEXT OF REPEALED SECTION

287.04366 Audits and reports. The Board shall provide to the Department of Administration and to the Interim Retirement and Benefits Committee of the Legislature, created by NRS 218E.420:

1. An annual audit of the Retirees' Fund to be conducted by an independent certified public accountant;

2. An annual report concerning the Retirees' Fund; and

3. An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Thank you, Mr. President. Assembly Bill No. 80 relates to the Public Employees' Benefits Program (PEBP). The bill is a clean up bill for this Session. The amendment removes statutory language that is already in regulation. There is little reason to place into statute that which is already in regulation. Regulations can be changed by the PEBP board at any time, however statutory regulation takes two years to change. I encourage your support.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 136.

Bill read third time.

Remarks by Senator Roberson.

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

Thank you, Mr. President. I will say it again to all of the members of this body that this bill will result in more serious felons to be released from prison early. Vote your conscience.

Roll call on Assembly Bill No. 136:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settlemeyer—10.

Assembly Bill No. 136 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 202.

Bill read third time.

Remarks by Senators McGinness, Kieckhefer and Kihuen.

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

SENATOR MCGINNESS:

Thank you, Mr. President. I would like an explanation of this bill. Was there any discussion with local governments where they would be abating those taxes; if they have a say, or is there at least some discussion on this?

SENATOR KIECKHEFER:

Thank you, Mr. President. I do not recall a specific conversation during the Committee meeting with the local governments. Mr. Fontaine from the Nevada Association of Counties testified on the bill. There was nothing specific as to opposition. The purpose of the bill is to provide economic incentive to encourage additional manufacturers to relocate into the State of Nevada. There was a consensus with the Select Committee on Economic Growth & Employment that the provisions would help ensure diversification of our economy and try to bring new business to the State.

SENATOR KIHUEN:

Assembly Bill No. 202 requires the Director of the Office of Energy to establish regulations for granting a partial abatement of property taxes, other than any taxes imposed for public education, on manufacturing businesses in Nevada. A manufacturer that applies for the partial abatement must renovate an existing building or other structure to meet the equivalent of the silver level or higher in accordance with the Green Building Rating System.

Roll call on Assembly Bill No. 202:

YEAS—21.

NAYS—None.

Assembly Bill No. 202 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 204.

Bill read third time.

Remarks by Senator Manendo.

Senator Manendo disclosed that part of this bill has to do with the collision repair industry in which he is employed. He advised the bill will not affect him any differently than anyone else in the industry. He will be voting.

Roll call on Assembly Bill No. 204:

YEAS—21.

NAYS—None.

Assembly Bill No. 204 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 258.

Bill read third time.

Remarks by Senator Wiener.

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

Assembly Bill No. 258 declares that the State of Nevada leads the United States in gaming regulation and enforcement, is uniquely positioned to develop a comprehensive and effective regulatory structure for interactive gaming, and must be prepared for possible federal legislation.

The bill requires the Nevada Gaming Commission, on or before January 31, 2012, to adopt regulations governing the licensing and operation of interactive gaming, including Internet poker. The regulations must establish appropriate licensing fees, set forth standards for the suitability of a person to be licensed as a manufacturer of interactive gaming systems, and provide that gross revenue received is subject to the same license fee provisions as games and gaming devices, unless federal law otherwise provides for a similar fee or tax.

The bill requires the regulations to provide that any license to operate interstate interactive gaming does not become effective until a federal law authorizing the specific type of interactive gaming for which the license was granted is enacted, or the U.S. Department of Justice notifies the Commission or the Gaming Control Board that it is permissible under federal law. Finally, Assembly Bill No. 258 provides that it is unlawful for an owner or lessee to operate an interactive gaming system without having procured all required local, State, and federal licenses.

Roll call on Assembly Bill No. 258:

YEAS—19.

NAYS—Cegavske, Halseth—2.

Assembly Bill No. 258 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 273.

Bill read third time.

Roll call on Assembly Bill No. 273:

YEAS—21.

NAYS—None.

Assembly Bill No. 273 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 358.

Bill read third time.

Roll call on Assembly Bill No. 358:

YEAS—21.

NAYS—None.

Assembly Bill No. 358 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 390.

Bill read third time.

Roll call on Assembly Bill No. 390:

YEAS—21.

NAYS—None.

Assembly Bill No. 390 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 452.

Bill read third time.

Remarks by Senator Parks.

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

Assembly Bill No. 452 provides for the electronic filing of certain campaign contribution and expenditure reports and statements of financial disclosure with the Secretary of State, amends related deadlines for the filing of these documents, and requires the Secretary of State to design the forms. A person signing a campaign or expenditure report under an oath to God is subject to the same penalties as if the individual signed the report under penalty of perjury. Exceptions to filing reports electronically are provided for candidates who meet certain requirements. Additionally, campaign contributions and expenditures, expenses, and unspent contributions that are disposed of which are less than \$100 must be reported in the aggregate.

Roll call on Assembly Bill No. 452:

YEAS—14.

NAYS—Brower, Gustavson, Halseth, McGinness, Rhoads, Roberson, Settlemeyer—7.

Assembly Bill No. 452 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 471.

Bill read third time.

Roll call on Assembly Bill No. 471:

YEAS—21.

NAYS—None.

Assembly Bill No. 471 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 473.

Bill read third time.

Remarks by Senators Parks and McGinness.

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

SENATOR PARKS:

Assembly Bill No. 473 authorizes a clerk to use abbreviations for the terms "independent" and "nonpartisan" on sample and actual ballots. Additionally, this measure revises procedures for preparing and sending absent ballots to certain voters in compliance with federal law, and revises the required hours of operation for city and county clerks' offices during voter registration periods. It also requires that complaints challenging initiatives or referenda be given priority over all but criminal matters pending before a court, and makes technical revisions to the filing deadline for candidates for the Board of the Virgin Valley Water District.

SENATOR MCGINNESS:

Could the Chair of the Committee answer a question about the hours of operation? The bill says, "the hours of operation." Was that until midnight for all counties?

SENATOR PARKS:

Thank you, Mr. President. We had an amendment earlier today that removed those late hours. That was the portion where you could file to register to vote electronically. We removed that.

Roll call on Assembly Bill No. 473:

YEAS—21.

NAYS—None.

Assembly Bill No. 473 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 489.

Bill read third time.

Roll call on Assembly Bill No. 489:

YEAS—21.

NAYS—None.

Assembly Bill No. 489 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 530.

Bill read third time.

Roll call on Assembly Bill No. 530:

YEAS—21.

NAYS—None.

Assembly Bill No. 530 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 549.

Bill read third time.

Roll call on Assembly Bill No. 549:

YEAS—21.

NAYS—None.

Assembly Bill No. 549 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 410.

Bill read third time.

Roll call on Assembly Bill No. 410:

YEAS—21.

NAYS—None.

Assembly Bill No. 410 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 7:31 p.m.

SENATE IN SESSION

At 7:37 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Schneider moved to reconsider the vote whereby Senate Bill No. 164 this day lost.

Motion carried on a division of the house.

Senator Roberson moved to reconsider the vote whereby Assembly Bill No. 452 this day passed.

Motion carried on a division of the house.

Senator Wiener moved that Senate Bills Nos. 259, 292, 323, 339, 414 be taken from Unfinished Business and placed on Unfinished Business on the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 223.

Bill read third time.

The following amendment was proposed by Senator Lee:

Amendment No. 851.

"SUMMARY—Makes various changes concerning the execution on property of a judgment debtor or defendant. (BDR 2-989)"

"AN ACT relating to civil actions; providing that a certain amount of money held in a personal bank account that is likely to be exempt from execution is not subject to a writ of execution or garnishment except in certain circumstances; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a judgment creditor to obtain a writ of execution, attachment or garnishment to levy on the property of a judgment debtor or defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property, however, is exempt from execution and therefore cannot be the subject of such a writ. (NRS 21.090) **Section 3** of this bill provides that a certain amount of money held in the personal bank account of a judgment debtor which is likely to be exempt from execution is not subject to a writ of execution or garnishment and must remain accessible to the judgment debtor

except in certain circumstances. **Section 3** further provides immunity from liability to a financial institution which makes an incorrect determination concerning whether money is subject to execution. **Section 4** of this bill provides that notwithstanding the provisions of **section 3**, if a judgment debtor has personal bank accounts in more than one financial institution, the writ may attach to all money in those accounts. The judgment debtor then may claim any exemption that may apply.

Section 5 of this bill provides that a separate writ must be issued to levy on property in a safe-deposit box and provides a procedure for executing on such a writ.

Section 5.5 of this bill revises the form for a writ of execution issued on a judgment for the recovery of money to include notice on the form to financial institutions of whether the judgment is for the recovery of money for the support of a person.

Section 7 of this bill provides additional exemptions from execution which are provided by Nevada law.

Section 8 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. **Sections 6 and 10** of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor or defendant so that the procedures listed in the notice reflect the changes made in **section 8**. **Sections 6 and 10** further revise the notice to provide additional information concerning the claiming of exemptions.

Sections 2 and 9 of this bill clarify that a constable has authority to perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff with respect to a writ of execution, garnishment or attachment.

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in **section 3**.

Section 12 of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment.

Section 13 of this bill provides that the fee for receiving, removing and taking care of property on execution, attachment or court order collected by a constable is not payable in advance.

Section 14 of this bill provides that certain unemployment benefits are exempt from execution regardless of whether they are mingled with other money.

Section 15 of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in **section 8**.

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.*

Sec. 3. 1. *If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, \$2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:*

(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;

(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;

(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;

(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;

(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;

(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;

(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;

(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;

(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;

(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;

(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;

(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;

(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and

(n) Benefits provided pursuant to any other federal law.

2. *If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and the provisions of subsection 1 do not apply, ~~[\$1,000]~~ \$400 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor, unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.*

3. *If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable.*

4. *A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2.*

5. *If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.*

6. *A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified*

the source of the money. If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

7. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Sec. 4. 1. Notwithstanding the provisions of section 3 of this act, if a judgment debtor has a personal bank account in more than one financial institution, the judgment creditor is entitled to an order from the court to be issued with the writ of execution or garnishment which states that all money held in all such accounts of the judgment debtor that are identified in the application for the order are subject to the writ.

2. A judgment creditor may apply to the court for an order pursuant to subsection 1 by submitting a signed affidavit which identifies each financial institution in which the judgment debtor has a personal account.

3. A judgment debtor may claim an exemption for any exempt money in the account to which the writ attaches in the manner set forth in NRS 21.112.

Sec. 5. 1. If a writ of execution or garnishment is levied on property in a safe-deposit box maintained at a financial institution, a separate writ must be issued from any writ that is issued to levy on an account of the judgment debtor with the financial institution. Notice of the writ must be served personally on the financial institution and promptly thereafter on any third person who is named on the safe-deposit box.

2. During the period in which the writ of execution or garnishment is in effect, the financial institution must not allow the contents of the safe-deposit box to be removed other than as directed by the sheriff or by court order.

3. The sheriff may allow the person in whose name the safe-deposit box is held to open the safe-deposit box so that the contents may be removed pursuant to the levy. The financial institution may refuse to allow the forcible opening of the safe-deposit box to allow the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.

Sec. 5.5. NRS 21.025 is hereby amended to read as follows:

21.025 A writ of execution issued on a judgment for the recovery of money must be substantially in the following form:

(Title of the Court)

(Number and abbreviated title of the case)

EXECUTION

THE PEOPLE OF THE STATE OF NEVADA:

To the sheriff of County.

To FINANCIAL INSTITUTIONS: This judgment is for the recovery of money for the support of a person.

\$.....principal,
\$.....attorney's fees,
\$.....interest, and
\$.....costs, making a total amount of
\$.....the judgment as entered, and

\$.....accrued interest, and
\$.....accrued costs, together with \$.... fee, for the issuance of
this writ, making a total of
\$.....as accrued costs, accrued interest and fees.

\$.....

\$.....

NOW, THEREFORE, SHERIFF OF COUNTY, you are hereby commanded to satisfy this judgment with interest and costs as provided by law, out of the personal property of the judgment debtor, except that for any workweek, 75 percent of the disposable earnings of the debtor during that week or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what you have done.

....., Clerk.

Sec. 6. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➤ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~a notarized affidavit claiming the~~ ***an executed claim of exemption***. A copy of the ~~affidavit~~ ***claim of exemption*** must be served upon the sheriff, ~~the garnishee~~ and the judgment creditor within ~~8~~ ~~(20 calendar)~~ ***10*** days after the notice of execution ~~or garnishment is mailed.~~ ***is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~returned to you~~ ***released by the garnishee or the sheriff*** within ~~5~~ ***9 judicial*** days after you ~~file~~ ***serve the*** ~~affidavit~~ ***claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless ~~you or the judgment creditor files a motion~~ ***the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~motion~~ ***objection to the claim of exemption and notice*** for the hearing to determine the issue of exemption must be filed within ~~10~~ ***8 judicial*** days after the ~~affidavit claiming~~ ***claim of exemption is filed.*** ***served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The hearing to determine whether the property or money is exempt must be held within ~~10~~ ***7 judicial*** days after the ~~motion~~ ***objection to the claim of exemption and notice*** for the hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from***

financial institutions or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE ~~AFFIDAVIT~~ **EXECUTED CLAIM OF EXEMPTION** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 7. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed \$500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably

necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed \$1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A beneficial interest in the trust as defined in NRS 163.4145 if the interest has not been distributed;

(2) A remainder interest in the trust as defined in NRS 163.416 if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;

(3) A discretionary interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(4) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been distributed or transferred;

(5) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been distributed or transferred;

(6) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been distributed or transferred; and

(7) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(dd) If a trust contains a spendthrift provision:

(1) A mandatory interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(2) Notwithstanding a beneficiary's right to enforce a support interest, a support interest in the trust as described in NRS 163.4185 if the interest has not been distributed; and

(3) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 8. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on ~~it~~ pursuant to this section, the judgment debtor must, within ~~18~~ ~~20 calendar~~ 10 days after the notice ~~prescribed in NRS 21.075 is mailed,~~ of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on, serve on the sheriff, the garnishee and the judgment creditor and file with the clerk of the court issuing the writ of execution ~~an affidavit setting out~~ the judgment debtor's claim of exemption ~~it~~ which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within ~~20 calendar~~ 10 days after the date of each withholding of the judgment debtor's earnings.

2. The clerk of the court shall provide the form for the ~~affidavit~~.

~~2. When the affidavit is served, the sheriff shall release the property if the judgment creditor, within 5 days after written demand by the sheriff:~~

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

~~(1) Is in a sum equal to double the value of the property levied on; and~~

~~(2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~—(b) Fails to file a motion for a hearing to determine whether the property or money is exempt.~~

~~→ The clerk of the court shall provide the form for the motion.~~

~~—3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.~~

~~—4.} *claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.*~~

3. *An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*

4. *If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.*

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property ~~†} where ‡~~

~~—(a) No affidavit claiming} a claim of exemption is *not* served on the sheriff. ‡; or~~

~~—(b) An affidavit claiming exemption is served on the sheriff, but the sheriff fails to release the property in accordance with this section.~~

~~—5.} 6. Unless the court continues the hearing for good cause shown, the hearing *on an objection to a claim of exemption* to determine whether the property or money is exempt must be held within ~~†10} 7 judicial~~ days after the ~~†motion} objection to the claim and notice for ‡the} a~~ hearing is filed.~~

~~†6. The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.} The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.~~

7. *If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the*

property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. The provisions of this section do not limit or prohibit any other remedy provided by law.

10. In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

Sec. 9. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 10. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➡ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR

YOUR WAGES ARE BEING GARNISHED

Plaintiff, (name of person), alleges that you owe the plaintiff money. The plaintiff has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property

held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

- (a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

- (b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

- (a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➤ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~the~~ ~~a notarized affidavit claiming the~~ **an executed claim of exemption**. A copy of the ~~affidavit~~ **claim of exemption** must be served upon the sheriff, **the garnishee** and the judgment creditor within ~~18~~ ~~20 calendar~~ **10** days after the notice of execution **or garnishment** is ~~mailed~~ **served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on**. The property must be ~~returned to you~~ **released by the garnishee or the sheriff** within ~~5~~ **9** judicial days after you ~~file~~ **serve the** ~~affidavit~~ **claim of exemption upon the sheriff, garnishee and judgment creditor**, unless the ~~judgment creditor files a motion~~ **sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. **The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.** The hearing must be held within ~~10~~ **7** judicial days after the ~~motion~~ **objection to the claim of exemption and notice** for a hearing is filed. **You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.**

IF YOU DO NOT FILE THE ~~AFFIDAVIT~~ **EXECUTED CLAIM OF EXEMPTION** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to *be submitted with any writ of execution, attachment or garnishment* to the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants

.....,
or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount *of disposable earnings, as defined in NRS 31.295, that* each defendant presently earns during a pay period. *State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld.*

Calculate the attachable amount as follows:

(Check one of the following) *The employee is paid:*

[A] Weekly: __ [B] Biweekly: __ [C] Semimonthly: __ [D] Monthly: __

(1) Gross Earnings \$ _____

(2) Deductions required by law (not including child support) \$ _____

(3) Disposable Earnings [Subtract line 2 from line 1] \$ _____

(4) Federal Minimum Wage \$ _____

(5) Multiply line 4 by 50 \$ _____

(6) Complete the following directions in accordance with the letter selected above:

[A] Multiply line 5 by 1 \$ _____

[B] Multiply line 5 by 2 \$ _____

[C] Multiply line 5 by 52 and then divide by 24 \$ _____

[D] Multiply line 5 by 52 and then divide by 12 \$ _____

(7) Subtract line 6 from line 3 \$ _____

This is the attachable earnings. This amount must not exceed 25% of the disposable earnings from line 3.

Answer:

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in whichis interested? If so, state its value, and state fully all particulars.

Answer:

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to or in whichis interested, and now in the possession or under the control of others? If so, state particulars.

Answer:

Are you a financial institution with a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section 3 of this act, \$2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section 3 of this act or, if no such deposit has been made, ~~(\$1,000)~~ \$400 or the entire amount in the account, whichever is less, is not subject to garnishment ~~+~~, unless the garnishment is for the recovery of money owed for the support of any person. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer:

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer:

.....
Garnishee

I (insert the name of the garnishee), ~~do solemnly swear (or affirm)~~
declare under penalty of perjury that the answers to the foregoing
interrogatories by me subscribed are true ~~+~~ ***and correct.***

.....
(Signature of garnishee)

~~{SUBSCRIBED and SWORN to before me this day of the month of of the year}~~

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit the answers to the sheriff within the time required by the writ. ***The garnishee shall submit his or her answers to the judgment debtor within the same time.*** If the garnishee fails to do so, the garnishee shall be deemed in default.

Sec. 12. NRS 31.296 is hereby amended to read as follows:

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in the garnishee's answer to garnishee interrogatories that the garnishee is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of \$3 per pay period, not to exceed \$12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. ***The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of the judgment debtor's right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.***

Sec. 13. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~fee~~ **fees** described in ~~{paragraph}~~ **paragraphs (a) and (d)** of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his or her fees, which may be due the constable for services rendered by him or her in any suit or proceedings, the constable may have execution therefor in his or her own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 14. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~if they are not mingled with other money of the recipient,~~ are exempt from any remedy for the collection of all debts, except debts incurred for necessities furnished to the person or the person's spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

Sec. 15. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Currently Assembly Bill No. 223 provides that if a writ relating to a civil judgment is levied on the personal bank account of a debtor, and if money has been deposited electronically in the account within the last 45 days that is reasonably identifiable as exempt from execution, \$1,000 or the balance in the account, whichever is less, is not subject to execution unless recovery of the money is for the support of a person.

The amendment lowers the threshold account balance from \$1,000 to \$400 and currently, the bill changes the deadline for serving a claim of exemption from 8 to 20 calendar days after a notice of writ is served on the debtor. The amendment adjusts this deadline to 10 days.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senator Horsford moved that the Senate recess until 9 p.m.

Motion carried.

Senate in recess at 7:44 p.m.

SENATE IN SESSION

At 10:45 p.m.

President Krolicki presiding.

Quorum present.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

May 30, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bill No. 351.

MARK KRMPOTIC
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved to take Assembly Bill No. 351, upon return from reprint, from the General File and re-refer it to the Committee on Finance.

Motion carried.

Senator Wiener moved that Assembly Bill No. 260 be taken from the Secretary's desk and placed at the top of the General File.

Motion carried.

Senator Wiener moved that Assembly Bill No. 53 be taken from the Secretary's desk and placed on the General File.

Motion carried.

Senator Wiener moved that Senate Bill No. 164 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 260.

Bill read third time.

The following amendment was proposed by Senators Wiener and Copening:

Amendment No. 856.

"SUMMARY—Requires newly elected Legislators to attend training before the beginning of their first legislative session. (BDR 17-29)"

"AN ACT relating to the Legislature; requiring newly elected Legislators to attend training before the beginning of their first legislative session; ~~providing a monetary penalty for failure to attend the training sessions;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 3 of this]~~ **This** bill requires newly elected Legislators to attend training before the beginning of their first legislative session. The Speaker of the Assembly and the Majority Leader of the Senate are required to specify the dates of the training and to indicate which training sessions are mandatory. ~~[Section 4 of this bill provides that a Legislator who does not attend a mandatory training session without being excused must pay a penalty during the regular legislative session equal to one day of salary for each training session that was missed, to be deducted from the salary otherwise payable to the Legislator during the regular session.]~~

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

Section 1. Chapter 218A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *For the purposes of ~~[sections]~~ section 3 ~~[and 4]~~ of this act, the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly and the Minority Leader of the Senate are:*

1. For the period that begins immediately following a regular session of the Legislature until the day of the next general election, the members of the Legislature who served in those positions during that regular session or the persons designated as replacements in those positions; and

2. For the period that begins on the day next after the general election until the commencement of the ensuing regular session of the Legislature, the persons designated for those positions for the ensuing session.

Sec. 3. *1. A Legislator who is elected to the Assembly or the Senate who has not previously served in either House of the Legislature shall attend the training required pursuant to this section unless his or her attendance is excused pursuant to subsection 6.*

2. A member of the Assembly who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Speaker of the Assembly. A member of the Senate who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Majority Leader of the Senate.

3. The training required pursuant to this section must be recorded electronically and include:

(a) Legislative procedure and protocol;
(b) Overviews of the state budget and the budgetary process;
(c) Briefings on policy issues relevant to the State; and
(d) Such other matters as are deemed appropriate by the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly and the Minority Leader of the Senate for their respective Houses.

4. The Director of the Legislative Counsel Bureau shall provide staff support for the training required pursuant to this section.

5. *The training required pursuant to this section must not exceed a total of 10 days and must be conducted between the day next after the general election and the commencement of the ensuing regular session of the Legislature. The dates for the training must be determined by the Speaker of the Assembly and the Majority Leader of the Senate and posted on the public website of the Nevada Legislature on an Internet website not later than 90 days before the first day on which training will be conducted.*

6. *The Speaker of the Assembly or the Majority Leader of the Senate may excuse a Legislator from attending a training session otherwise required pursuant to this section in case of illness, injury, emergency, employment or other good cause as determined by the Speaker or Majority Leader.*

7. *The Director of the Legislative Counsel Bureau shall provide an electronic copy of a training session and a form for attesting completion of the training session to any Legislator who was unable to attend the training session. To successfully complete the training required pursuant to this section, such a Legislator must view the training session electronically and submit the attestation to the Director of the Legislative Counsel Bureau.*

8. *The Director of the Legislative Counsel Bureau shall issue a "Certificate of Graduation from the Legislative Training Academy" to each Legislator who successfully completes the training required pursuant to this section.*

~~Sec. 4. 1. A Legislator who fails to attend a training session designated as mandatory pursuant to section 3 of this act, unless excused by the Speaker of the Assembly or the Majority Leader of the Senate, as applicable, shall pay a penalty equal to one day of salary for each mandatory training session which he or she failed to attend. The penalty must be withheld from the salary otherwise payable to the Legislator pursuant to NRS 218A.630.~~

~~2. A Legislator may appeal a penalty imposed pursuant to subsection 1 to the Assembly or Senate, as applicable. The Assembly or Senate, or a committee appointed to hear the appeal, may affirm the penalty, reduce the amount of the penalty or excuse the penalty. Each House shall determine the procedure for such an appeal.] (Deleted by amendment.)~~

Sec. 5. NRS 218A.635 is hereby amended to read as follows:

218A.635 1. Except as otherwise provided in subsections 2 and 4, each Senator, Assemblywoman and Assemblyman is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session, and the per diem allowance and travel expenses provided by law, for each day of attendance at a presession orientation conference *or a training session conducted pursuant to section 3 of this act* or at a conference, meeting, seminar or other gathering at which the Legislator officially represents the State of Nevada or its Legislature.

2. A nonreturning Legislator must not be paid the compensation or per diem allowance and travel expenses provided in subsection 1 for attendance at a conference, meeting, seminar or other gathering unless:

(a) It is conducted by a statutory committee or a committee of the Legislature and the Legislator is a member of that committee; or

(b) The Majority Leader of the Senate or Speaker of the Assembly designates the Legislator to attend because of the Legislator's knowledge or expertise.

3. For the purposes of this section, "nonreturning Legislator" means a Legislator who, in the year that the Legislator's term of office expires:

(a) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a Senator, Assemblywoman or Assemblyman;

(b) Has failed to win nomination as a candidate for the Senate or the Assembly at the primary election; or

(c) Has withdrawn as a candidate for the Senate or the Assembly.

4. This section does not apply:

(a) During a regular or special session of the Legislature; or

(b) To any Senator, Assemblywoman or Assemblyman who is otherwise entitled to receive a salary and the per diem allowance and travel expenses.

Sec. 6. NRS 218A.640 is hereby amended to read as follows:

218A.640 A Legislator who attends and is compensated for attending a:

1. Session or presession orientation conference of the Legislature ~~or~~ **or a training session conducted pursuant to section 3 of this act;**

2. Meeting of an interim legislative committee; or

3. Meeting of the Legislative Commission or its Audit Subcommittee,
 ➤ is not entitled to receive an additional day's salary or compensation for any other such meeting or conference the Legislator attends in that day.

Sec. 7. NRS 218A.645 is hereby amended to read as follows:

218A.645 1. The per diem expense allowance and the travel and telephone expenses of Senators, Assemblymen and Assemblywomen elected or appointed and in attendance at any session or presession orientation conference of the Legislature **or training session conducted pursuant to section 3 of this act** must be allowed in the manner set forth in this section.

2. For initial travel from the Legislator's home to Carson City, Nevada, to attend a session or presession orientation conference of the Legislature ~~or~~ **or a training session conducted pursuant to section 3 of this act**, and for return travel from Carson City, Nevada, to the Legislator's home upon adjournment sine die of a session or termination of a presession orientation conference of the Legislature ~~or~~ **or termination of a training session conducted pursuant to section 3 of this act**, each Senator, Assemblyman and Assemblywoman is entitled to receive:

(a) A per diem expense allowance, not to exceed the maximum rate established by the Federal Government for the Carson City area, for 1 day's travel to and 1 day's travel from the session, **training session** or conference.

(b) Travel expenses.

3. In addition to the per diem and travel expenses authorized by subsection 2, each Senator, Assemblyman and Assemblywoman is entitled to receive a supplemental allowance which must not exceed:

(a) A total of \$10,000 during each regular session of the Legislature for:

(1) The Legislator's actual expenses in moving to and from Carson City for the session;

(2) Travel to and from the Legislator's home or temporary residence or for traveling to and from legislative committee and subcommittee meetings or hearings or for individual travel within the State which relates to legislative business;

(3) If the Legislator rents furniture for the Legislator's temporary residence rather than moving similar furniture from the Legislator's home, the cost of renting that furniture not to exceed the amount that it would have cost to move the furniture to and from the Legislator's home; and

(4) If:

(I) The Legislator's home is more than 50 miles from Carson City; and

(II) The Legislator maintains temporary quarters in or near Carson City for which the Legislator has entered into a lease or other agreement for occupancy during a regular legislative session,

→ the cost of such additional housing, paid at the end of each month during the legislative session, beginning the month of the first day of the legislative session and ending the month of the adjournment sine die of the legislative session, in an amount that is the fair market rent for a one bedroom unit in Carson City as published by the United States Department of Housing and Urban Development prorated for the number of days of the month that the Legislator actually maintained the temporary quarters in or near Carson City. For the purposes of this subparagraph, any day before the first day of the legislative session or after the day of the adjournment sine die of the legislative session may not be counted as a day for which the Legislator actually maintained such temporary quarters; and

(b) A total of \$1,200 during each special session of the Legislature for travel to and from the Legislator's home or temporary residence or for traveling to and from legislative committee and subcommittee meetings or hearings or for individual travel within the State which relates to legislative business.

4. Each Senator, Assemblyman and Assemblywoman is entitled to receive a per diem expense allowance, not to exceed the maximum rate established by the Federal Government for the Carson City area, for each day that the Legislature is in session or in a pre-session orientation conference ~~H~~ **or a training session conducted pursuant to section 3 of this act**, and for each day that the Legislator attends a meeting of a standing committee of which the Legislator is a member when the Legislature has adjourned for more than 4 days.

5. Each Senator, Assemblyman and Assemblywoman who maintains temporary quarters in or near Carson City for which the Legislator has entered into a lease or other agreement for continuous occupancy for the duration of a legislative session is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 14 days in each period in which:

- (a) The Legislature has adjourned until a time certain; and
- (b) The Senator, Assemblyman or Assemblywoman is not entitled to a per diem expense allowance pursuant to subsection 4.

6. In addition to the per diem expense allowance authorized by subsection 4 and the lodging allowance authorized by subsection 5, each Senator, Assemblyman and Assemblywoman who maintains temporary quarters in or near Carson City for which the Legislator has entered into a lease or other agreement for continuous occupancy for the duration of a legislative session is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 17 days in each period in which:

- (a) The Legislature has adjourned for more than 4 days; and
- (b) The Senator, Assemblyman or Assemblywoman must obtain temporary lodging in a location that a standing committee of which the Legislator is a member is meeting.

7. Each Senator, Assemblyman and Assemblywoman is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 6 days in each period in which:

- (a) The Legislature has adjourned for more than 4 days; and
- (b) The Senator, Assemblyman or Assemblywoman must obtain temporary lodging in a location that a standing committee of which the Legislator is a member is meeting,

➡ if the Senator, Assemblyman or Assemblywoman is not entitled to the per diem expense allowance authorized by subsection 4 or the lodging allowances authorized by subsections 5 and 6.

8. Each Senator, Assemblyman and Assemblywoman is entitled to receive a telephone allowance of not more than \$2,800 for the payment of tolls and charges incurred by the Legislator in the performance of official business during each regular session of the Legislature and not more than \$300 during each special session of the Legislature.

9. An employee of the Legislature assigned to serve a standing committee is entitled to receive the travel expenses and per diem allowance provided for state officers and employees generally if the employee is required to attend a hearing of the committee outside Carson City.

10. Claims for per diem expense allowances authorized by subsection 4 and lodging allowances authorized by subsections 5, 6 and 7 must be paid

once each week during a legislative session and upon completion of a presession orientation conference ~~+~~ **or a training session conducted pursuant to section 3 of this act.**

11. A claim for travel expenses authorized by subsection 2 or 3 must not be paid unless the Senator, Assemblyman or Assemblywoman submits a signed statement affirming:

- (a) The date of the travel; and
- (b) The places of departure and arrival and, if the travel is by private conveyance, the actual miles traveled. If the travel is not by private conveyance, the claim must include a receipt or other evidence of the expenditure.

12. Travel expenses authorized by subsections 2 and 3 are limited to:

(a) If the travel is by private conveyance, a rate equal to the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax. If two or more Legislators travel in the same private conveyance, the Legislator who provided or arranged for providing the transportation is presumed entitled to reimbursement.

(b) If the travel is not by private conveyance, the actual amount expended.
 ➔ Transportation must be by the most economical means, considering total cost, time spent in transit and the availability of state-owned automobiles.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

This amendment does several things. The changes take place on page 3 of the amendment.

In Section 3, subsection 3, it requires that all sessions be recorded electronically. That stipulation is important to a section later in the amendment.

In Section 3, subsection 6, it adds employment as a reason for missing training.

In Section 3, subsection 7, it adds new language that the Director of the Legislative Counsel Bureau shall provide an electronic copy that has been recorded of all the training to each new member of the Legislature. For the days a member is not able to attend in person, that member will have an opportunity to review the DVD. Others may review it at any time, as well. Legislators would attest to the completion of viewing that DVD.

In Section 3, subsection 8, the Legislative Counsel Director will issue a "Certificate of Graduation from the Legislative Training Academy" to each Legislator who has completed the training.

Section 4 is very important. It is the deletion of all penalties.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 421.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 847.

"SUMMARY—Revises provisions relating to certain funds. (BDR 40-1170)"

"AN ACT relating to public health; increasing the percentage of certain money received by the State to be allocated to the Fund for a Healthy

Nevada; revising provisions relating to the allocation of money in the Fund for a Healthy Nevada; eliminating the Trust Fund for Public Health; providing for the transfer of money remaining in the Trust Fund for Public Health; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Trust Fund for Public Health receives 10 percent of all "tobacco settlement" money, which is that money received by the State pursuant to any settlement entered into by the State and a manufacturer of tobacco products and money received by the State pursuant to any judgment in a civil action against a manufacturer of tobacco products. The Trust Fund for Public Health uses interest and income earned on that money to fund grants for programs relating to public health. (NRS 439.605) Additionally, 50 percent of all tobacco settlement money goes to the Fund for a Healthy Nevada and is then allocated to various other programs relating to public health in amounts or according to percentages of available revenues set by statute. (NRS 439.620, 439.630)

This bill eliminates the Trust Fund for Public Health and provides for money in the Trust Fund for Public Health to be transferred to the Fund for a Healthy Nevada. This bill also increases to 60 percent the share of tobacco settlement money allocated to the Fund for a Healthy Nevada. Additionally, this bill removes the provisions setting the percentages of available revenues to be allocated from the Fund for a Healthy Nevada on specific programs and instead requires the Department of Health and Human Services to propose a biennial plan for the allocation of money for those programs. The plan must be submitted as part of the proposed biennial budget of the Department. **In preparing the plan, the Department shall consider recommendations submitted by the Grants Management Advisory Committee, the Nevada Commission on Aging and the Nevada Commission on Services for Persons with Disabilities.** Finally, this bill removes certain programs relating to the prevention, reduction and treatment of tobacco use from the list of programs for which money in the Fund for a Healthy Nevada must be allocated.

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

Section 1. NRS 439.620 is hereby amended to read as follows:

439.620 1. The Fund for a Healthy Nevada is hereby created in the State Treasury. The State Treasurer shall deposit in the Fund:

(a) ~~Fifty~~ **Sixty** percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) ~~Fifty~~ **Sixty** percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. The State Treasurer or the Department may submit to the Interim Finance Committee a request for an allocation for administrative expenses from the Fund pursuant to this section. Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund must:

(a) Not exceed 2 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the State Treasurer to administer the Fund; and

(b) Not exceed 5 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department, including, without limitation, the Aging and Disability Services Division of the Department, to carry out its duties set forth in NRS 439.630, to administer the provisions of NRS 439.635 to 439.690, inclusive, and NRS 439.705 to 439.795, inclusive.

↪ For the purposes of this subsection, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund is hereby appropriated to be used for any purpose authorized by the Legislature or by the Department for expenditure or allocation in accordance with the provisions of NRS 439.630. Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 2. NRS 439.630 is hereby amended to read as follows:

439.630 1. The Department shall:

(a) Conduct, or require the Grants Management Advisory Committee created by NRS 232.383 to conduct, public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

(1) Promote public health;

(2) Improve health services for children, senior citizens and persons with disabilities;

(3) Reduce or prevent the abuse of and addiction to alcohol and drugs; and

(4) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities, and report the results of the evaluation to the Legislative Committee on Health Care on an annual basis.

(c) ~~{Allocate not more than 30 percent of available revenues}~~ **Subject to legislative appropriation, allocate money** for direct expenditure by the Department to pay for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From the money allocated pursuant to this paragraph, the Department may subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.635 to 439.690, inclusive. The Department shall submit a quarterly report to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate regarding the general manner in which expenditures have been made pursuant to this paragraph.

(d) ~~{Allocate}~~ **Subject to legislative appropriation, allocate**, by contract or grant, **money** for expenditure ~~{not more than 30 percent of available revenues for allocation}~~ by the Aging and Disability Services Division of the Department in the form of grants for existing or new programs that assist senior citizens with independent living, including, without limitation, programs that provide:

(1) Respite care or relief of informal caretakers;

(2) Transportation to new or existing services to assist senior citizens in living independently; and

(3) Care in the home which allows senior citizens to remain at home instead of in institutional care.

➡ The Aging and Disability Services Division of the Department shall consider recommendations from the Grants Management Advisory Committee concerning the independent living needs of senior citizens.

(e) Allocate \$200,000 of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Director to:

(1) Provide guaranteed funding to finance assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147; and

(2) Fund assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147 and assisted living supportive services that are provided pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708.

➤ The Director shall develop policies and procedures for distributing the money allocated pursuant to this paragraph. Money allocated pursuant to this paragraph does not revert to the Fund at the end of the fiscal year.

~~(f) Allocate to the Health Division not more than 15 percent of available revenues for programs that are consistent with the guidelines established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services relating to evidence-based best practices to prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. In making allocations pursuant to this paragraph, the Health Division shall allocate the money, by contract or grant:~~

~~—(1) To the district board of health in each county whose population is 100,000 or more for expenditure for such programs in the respective county;~~

~~—(2) For such programs in counties whose population is less than 100,000; and~~

~~—(3) For statewide programs for tobacco cessation and other statewide services for tobacco cessation and for statewide evaluations of programs which receive an allocation of money pursuant to this paragraph, as determined necessary by the Health Division and the district boards of health.~~

~~(g) Allocate, Subject to legislative appropriation, allocate, by contract or grant, money for expenditure not more than 10 percent of available revenues for programs that improve the health services for children and well-being of residents of this State.~~

~~{(h) Allocate,}~~

(g) Subject to legislative appropriation, allocate, by contract or grant, money for expenditure not more than 10 percent of available revenues for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the Department shall, to the extent practicable, allocate the money evenly among the following three types of programs:

(1) Programs that provide respite care or relief of informal caretakers for persons with disabilities;

(2) Programs that provide positive behavioral supports to persons with disabilities; and

(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.

~~{(i) Allocate not more than 5 percent of available revenues}~~

(h) Subject to legislative appropriation, allocate money for direct expenditure by the Department to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.705 to 439.795, inclusive.

~~+(i)~~ **(i)** Maximize expenditures through local, federal and private matching contributions.

~~+(j)~~ **(j)** Ensure that any money expended from the Fund will not be used to supplant existing methods of funding that are available to public agencies.

~~+(k)~~ **(k)** Develop policies and procedures for the administration and distribution of contracts, grants and other expenditures to state agencies, political subdivisions of this State, nonprofit organizations, universities, state colleges and community colleges. A condition of any such contract or grant must be that not more than 8 percent of the contract or grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals per biennium.

~~+(m)~~ **(l)** To make the allocations required by paragraphs ~~+(f)~~ (g) and (h):

- (1) Prioritize and quantify the needs for these programs;
- (2) Develop, solicit and accept applications for allocations;
- (3) Review and consider the recommendations of the Grants Management Advisory Committee submitted pursuant to NRS 232.385;
- (4) Conduct annual evaluations of programs to which allocations have been awarded; and
- (5) Submit annual reports concerning the programs to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

~~+(n)~~ **(m)** Transmit a report of all findings, recommendations and expenditures to the Governor, each regular session of the Legislature, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

(n) ~~Develop~~ After considering the recommendations submitted to the Director pursuant to subsection 6, develop a plan each biennium to determine the percentage of available money in the Fund for a Healthy Nevada to be allocated from the Fund for the purposes described in paragraphs (c), (d), (f), (g) and (h). The plan must be submitted as part of the proposed budget submitted to the Chief of the Budget Division of the Department of Administration pursuant to NRS 353.210.

(o) On or before September 30 of each even-numbered year, submit to the Grants Management Advisory Committee created by NRS 232.383, the Nevada Commission on Aging created by NRS 427A.032 and the Nevada Commission on Services for Persons with Disabilities created by

NRS 427A.1211 a report on the funding plan submitted to the Chief of the Budget Division of the Department of Administration pursuant to paragraph (n).

2. The Department may take such other actions as are necessary to carry out its duties.

3. To make the allocations required by paragraph (d) of subsection 1, the Aging and Disability Services Division of the Department shall:

- (a) Prioritize and quantify the needs of senior citizens for these programs;
- (b) Develop, solicit and accept grant applications for allocations;
- (c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;
- (d) Award grants, contracts or other allocations;
- (e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and

(f) Submit annual reports concerning the allocations made by the Aging and Disability Services Division pursuant to paragraph (d) of subsection 1 to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

4. The Aging and Disability Services Division of the Department shall submit each proposed grant or contract which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the grant or contract is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging and Disability Services Division of the Department shall not expend or transfer any money allocated to the Aging and Disability Services Division pursuant to this section to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive, or to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

5. A veteran may receive benefits or other services which are available from the money allocated pursuant to this section for senior citizens or persons with disabilities to the extent that the veteran does not receive other benefits or services provided to veterans for the same purpose if the veteran qualifies for the benefits or services as a senior citizen or a person with a disability, or both.

6. ~~As used in this section, "available revenues" means the total revenues deposited in the Fund for a Healthy Nevada each year minus \$200,000.~~ **On or before June 30 of each even-numbered year, the Grants Management**

Advisory Committee, the Nevada Commission on Aging and the Nevada Commission on Services for Persons with Disabilities each shall submit to the Director a report that includes, without limitation, recommendations regarding community needs and priorities that are determined by each such entity after any public hearings held by the entity.

Sec. 3. The State Controller shall transfer to the Fund for a Healthy Nevada created by NRS 439.620, as soon as practicable on or after July 1, 2011, all money remaining in the Trust Fund for Public Health created by NRS 439.605 that has not been committed for expenditure.

Sec. 4. NRS 439.605, 439.610 and 439.615 are hereby repealed.

Sec. 5. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

439.605 Creation and administration of Fund; permissible investments; appropriation and expenditure of interest and income.

1. The Trust Fund for Public Health is hereby created in the State Treasury. The State Treasurer shall deposit in the Trust Fund:

(a) Ten percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) Ten percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Trust Fund. As administrator of the Trust Fund, the State Treasurer, except as otherwise provided in this section:

(a) Shall maintain the financial records of the Trust Fund;

(b) Shall invest the money in the Trust Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Trust Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Trust Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Trust Fund.

3. In addition to the investments authorized pursuant to paragraph (b) of subsection 2, the State Treasurer may, except as otherwise provided in subsection 4, invest the money in the Trust Fund in:

(a) Common or preferred stock of a corporation created by or existing under the laws of the United States or of a state, district or territory of the United States, if:

(1) The stock of the corporation is:

(I) Listed on a national stock exchange; or

(II) Traded in the over-the-counter market, if the price quotations for the over-the-counter stock are quoted by the National Association of Securities Dealers Automated Quotations System (NASDAQ);

(2) The outstanding shares of the corporation have a total market value of not less than \$50,000,000;

(3) The maximum investment in stock is not greater than 50 percent of the book value of the total investments of the Trust Fund;

(4) Except for investments made pursuant to paragraph (c), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the Trust Fund; and

(5) Except for investments made pursuant to paragraph (c), the total amount of shares owned by the Trust Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(b) A pooled or commingled real estate fund or a real estate security that is managed by a corporate trustee or by an investment advisory firm that is registered with the Securities and Exchange Commission, either of which may be retained by the State Treasurer as an investment manager. The shares and the pooled or commingled fund must be held in trust. The total book value of an investment made under this paragraph must not at any time be greater than 5 percent of the total book value of all investments of the Trust Fund.

(c) Mutual funds or common trust funds that consist of any combination of the investments authorized pursuant to paragraph (b) of subsection 2 and paragraphs (a) and (b) of this subsection.

4. The State Treasurer shall not invest any money in the Trust Fund pursuant to subsection 3 unless the State Treasurer obtains a judicial determination that the proposed investment or category of investments will not violate the provisions of Section 9 of Article 8 of the Constitution of the State of Nevada. The State Treasurer shall contract for the services of independent contractors to manage any investments of the State Treasurer made pursuant to subsection 3. The State Treasurer shall establish such criteria for the qualifications of such an independent contractor as are appropriate to ensure that each independent contractor has expertise in the management of such investments.

5. The interest and income earned on the money in the Trust Fund is hereby appropriated to the Board of Trustees of the Trust Fund for Public Health and must, after deducting any applicable charges, be credited to the Fund and accounted for separately. All claims against the Fund must be paid as other claims against the State are paid.

6. Only the interest and income earned on the money in the Trust Fund may be expended. Such expenditures may be made for:

(a) Grants made pursuant to NRS 439.615 for:

(1) The promotion of public health and programs for the prevention of disease or illness;

(2) Research on issues related to public health; and

(3) The provision of direct health care services to children and senior citizens;

(b) Expenses related to the operation of the Board of Trustees of the Trust Fund;

(c) Actual costs incurred by the Health Division for providing administrative assistance to the Board, but in no event may more than 2 percent of the money in the Fund be used for administrative expenses or other indirect costs; and

(d) Any other purpose authorized by the Legislature.

7. The money in the Trust Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

439.610 Board of Trustees of Fund: Creation; membership; election of Chair; meetings; quorum; compensation of members; administrative support.

1. The Board of Trustees of the Trust Fund for Public Health is hereby created.

2. The Board consists of 11 members composed of:

(a) The Administrator or a designee of the Administrator.

(b) The State Health Officer or a designee of the State Health Officer.

(c) The Chair of the Nevada Commission on Aging or a designee of the Chair.

(d) The Chair of the State Board of Health or a designee of the Chair.

(e) The Chair of the Advisory Board on Maternal and Child Health or a designee of the Chair.

(f) The superintendent of schools of the school district in this State that has the highest number of enrolled pupils or a designee of that superintendent.

(g) The county health officers of the two most populous counties in this State.

(h) One member appointed by the Nevada Association of Counties, or its successor, who serves as a county health officer in a rural area of this State.

(i) A representative of the University of Nevada School of Medicine appointed by the Dean of the School of Medicine.

(j) One member appointed by the Governor who possesses knowledge, skill and experience in providing health care services.

3. The term of a member of the Board who is appointed pursuant to paragraph (h), (i) or (j) of subsection 2 is 4 years.

4. The Board shall annually elect a Chair from among its members. The Board shall meet at least quarterly. A majority of the members constitutes a quorum, and a majority of those present must concur in any decision.

5. Each member of the Board serves without compensation. While engaged in the business of the Board, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses of:

(a) A member of the Board who is an officer or employee of this State or a local government thereof must be paid by the state agency or the local government.

(b) Any other member of the Board must be paid from the interest and income earned on the money in the Trust Fund.

6. Each member of the Board who is an officer or employee of this State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the officer or employee may perform his or her duties relating to the Board in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Board to:

(a) Make up the time he or she is absent from work to fulfill his or her obligations as a member of the Board; or

(b) Take annual leave or compensatory time for the absence.

7. The Health Division shall provide such administrative support to the Board as is required to carry out the duties of the Board.

439.615 Board of Trustees of Fund: Powers and duties.

1. The Board of Trustees shall:

(a) In accordance with the provisions set forth in subsection 6 of NRS 439.605, develop policies and procedures for the expenditure of the interest and income earned on the money in the Trust Fund for Public Health.

(b) After deducting authorized expenses, annually make grants in a cumulative amount equal to the interest and income earned on the money in the Trust Fund for Public Health.

(c) Develop forms for requests for proposals for grants and disseminate information about the grant program. A condition of each such grant must be that not more than 8 percent of the grant may be used for administrative expenses and other indirect costs.

(d) Publish an annual report of the activities of the Board and the grants made by the Board. A copy of each such report must be transmitted to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

2. The Board may take such other actions as are necessary to carry out its duties and the provisions of this section and NRS 439.605 and 439.610.

Senator Leslie moved the adoption of the amendment.

Remarks by Senator Leslie.

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

This amendment makes certain that the public has input into the plan to spend the tobacco settlement money from the civil action against tobacco manufacturers. On page 6, there is specific language from line 24 through line 29 that uses already established committees and commissions to review the plan and to provide input to the Department of Health and Human Services.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that upon return from reprint, Senate Bill No. 421 be taken from General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 53.

Bill read third time.

Roll call on Assembly Bill No. 53:

YEAS—19.

NAYS—Kieckhefer, Leslie—2.

Assembly Bill No. 53 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 78.

Bill read third time.

Remarks by Senator Roberson.

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

Thank you, Mr. President. Assembly Bill No. 78 deals a crushing blow to Nevada's smallest home-based businesses and to our national image as a business-friendly State. As I said when we voted on this the first time, this will increase fees on our smallest businesses by 260 percent. Many, if not everyone, in this body has campaigned, in part, on being a friend to small business. Now is the time to prove it. I encourage you to vote "no" on Assembly Bill No. 78.

Roll call on Assembly Bill No. 78:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settlemeyer—10.

Assembly Bill No. 78 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 80.

Bill read third time.

Remarks by Senator Parks.

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

Assembly Bill No. 80 clarifies the reporting requirements on the administration and operation of the Public Employees' Benefit Program and repeals a redundant provision. The bill updates statutory provisions to comply with the federal Patient Protection and Affordable Care Act. The provisions permitting exclusion of pre-existing conditions by grandfathered plans expire at the time that federal law no longer permits such exclusions.

Roll call on Assembly Bill No. 80:

YEAS—21.

NAYS—None.

Assembly Bill No. 80 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 223.

Bill read third time.

Roll call on Assembly Bill No. 223:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Rhoads, Roberson,
Settelmeyer—9.

Assembly Bill No. 223 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 452.

Bill read third time.

Remarks by Senator Roberson.

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

I would like to thank the body's indulgence for letting us vote on this a second time. I now
proudly support Assembly Bill No. 452.

Roll call on Assembly Bill No. 452:

YEAS—21.

NAYS—None.

Assembly Bill No. 452 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 260.

Bill read third time.

Roll call on Assembly Bill No. 260:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Rhoads, Roberson,
Settelmeyer—9.

Assembly Bill No. 260 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 11:03 p.m.

SENATE IN SESSION

At 11:30 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which were referred Assembly Bills Nos. 225, 229, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MO DENIS, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that all necessary rules be suspended, that the reading of the bills so far be considered to have fulfilled the requirement for second reading, and that Assembly Bills Nos. 225, 229, be declared emergency measures under the Constitution and be placed on third reading for final passage on this legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 225.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 860.

"SUMMARY—Requires an additional probationary period for certain teachers and administrators. (BDR 34-876)"

"AN ACT relating to educational personnel; requiring certain teachers and administrators who receive unsatisfactory evaluations to serve an additional probationary period; authorizing certain employees to request an expedited hearing under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that each teacher and administrator who is employed by a school district in this State must serve a 2-year probationary period, unless the second year of the probationary period is waived by the superintendent of schools of the school district or the superintendent's designee. A probationary employee who completes his or her probationary period and receives a notice of reemployment from the school district becomes a postprobationary employee in the ensuing year of employment. (NRS 391.3197) Existing law also provides that a postprobationary teacher or administrator must be evaluated at least once each year. (NRS 391.3125, 391.3127) **Section 1** of this bill provides that a postprobationary teacher or administrator who receives an unsatisfactory evaluation , or any other equivalent evaluation which designates his or her overall performance as below average, for 2 consecutive school years shall be deemed to be a probationary employee and must serve an additional probationary period. **Section 4** of this bill provides that the provisions of **section 1** ~~do not apply~~ **are not** superseded by the terms of a collective bargaining agreement. **Section 5** of this bill authorizes a teacher or administrator who is deemed to be a probationary employee pursuant to **section 1** and who receives notice that he or she will be dismissed before the completion of the current school

year to request an expedited hearing pursuant to the expedited hearing procedures established by the American Arbitration Association.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

A postprobationary employee who receives an unsatisfactory evaluation pursuant to NRS 391.3125 or 391.3127, as applicable, or any other equivalent evaluation designating his or her overall performance as below average, for 2 consecutive school years shall be deemed to be a probationary employee for the purposes of NRS 391.311 to 391.3197, inclusive, and must serve an additional probationary period in accordance with the provisions of NRS 391.3197.

Sec. 2. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, ***and section 1 of this act***, unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, ***and section 1 of this act*** is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment. ***The term does not include a person who is deemed to be a probationary employee pursuant to section 1 of this act.***

6. "Probationary employee" means ~~any~~ :

(a) An administrator or a teacher who is employed for the period set forth in NRS 391.3197 ~~to~~ ; ***and***

(b) ***A person who is deemed to be a probationary employee pursuant to section 1 of this act.***

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

Sec. 3. NRS 391.3115 is hereby amended to read as follows:

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, **and section 1 of this act** do not apply to:

- (a) Substitute teachers; or
- (b) Adult education teachers.

2. The provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.

3. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, **and section 1 of this act** for demotion, suspension or dismissal apply to them.

Sec. 4. NRS 391.3116 is hereby amended to read as follows:

391.3116 ~~1. The~~ **Excluding the provisions of section 1 of this act, the** provisions of NRS 391.311 to 391.3197, inclusive, ~~and section 1 of this act~~ do not apply to a teacher, administrator, or other licensed employee who has entered into a contract with the board negotiated pursuant to chapter 288 of NRS if the contract contains separate provisions relating to the board's right to dismiss or refuse to reemploy the employee or demote an administrator.

Sec. 5. NRS 391.317 is hereby amended to read as follows:

391.317 1. At least 15 days before recommending to a board that it demote, dismiss or not reemploy a postprobationary employee, or dismiss or demote a probationary employee, the superintendent shall give written notice to the employee, by registered or certified mail, of the superintendent's intention to make the recommendation.

2. The notice must:

- (a) Inform the licensed employee of the grounds for the recommendation.
- (b) Inform the employee that, if a written request therefor is directed to the superintendent within 10 days after receipt of the notice, the employee is entitled to a hearing before a hearing officer ~~+~~ **pursuant to NRS 391.315 to**

391.3194, inclusive, or if the employee is deemed to be a probationary employee pursuant to section 1 of this act and dismissal of the employee will occur before the completion of the current school year, the employee may request an expedited hearing pursuant to subsection 3.

(c) Refer to chapter 391 of NRS.

3. If an employee who is deemed to be a probationary employee pursuant to section 1 of this act receives notice pursuant to subsection 1 that he or she will be dismissed before the completion of the current school year, the employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization. If the employee elects to proceed under the expedited procedures, the provisions of NRS 391.3161, 391.3192 and 391.3193 do not apply.

Sec. 6. This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 728 makes the following changes. First, it specifies that the term "year" in the bill refers to a school year. Second, it clarifies that the provisions of the bill concerning post-probationary employees serving an additional probationary period due to unsatisfactory evaluations, do not apply to contracts negotiated pursuant to the collective bargaining provisions of Chapter 288.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 229.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 861.

"SUMMARY—Revises provisions governing the accountability and performance of public schools and educational personnel. (BDR 34-515)"

"AN ACT relating to education; revising the annual reports of accountability information for public schools; requiring the board of trustees of each school district to establish and implement a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators; removing probationary teachers and probationary administrators from the applicability of certain provisions governing certain disciplinary measures by school districts; revising provisions governing the demotion, suspension, dismissal and nonreemployment of certain teachers and administrators; expanding the grounds for immediate dismissal and refusal to reemploy; revising the designations of the overall performance of teachers and administrators required by the policies for evaluations of each school district; authorizing a **probationary or postprobationary** employee to request an expedited hearing under certain circumstances; revising provisions governing the probationary periods of teachers and administrators and the evaluations of

probationary teachers and probationary administrators; revising provisions governing the reduction in the workforce of a school district; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Board of Education and the board of trustees of each school district to prepare an annual report of accountability information for public schools. (NRS 385.3469, 385.347) **Sections 1 and 2** of this bill expand the requirements of the annual reports of accountability to include a reporting of the number and percentages of administrators, teachers and ~~(support) other~~ staff for each elementary school, middle school or junior high school, and high school and for each school district in the State.

Section 8 of this bill requires the board of trustees of each school district to: (1) establish a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators; and (2) implement the program commencing with the 2014-2015 school year.

Existing law requires that the board of trustees of each school district develop a policy for the evaluation of teachers and administrators pursuant to which an individual teacher or administrator is designated as "satisfactory" or "unsatisfactory." (NRS 391.3125, 391.3127) Effective July 1, 2013, **sections 14 and 16** of this bill revise the policies for evaluations to require the designation of an individual teacher or administrator as "highly effective," "effective," "minimally effective" or "ineffective ~~+~~" **and provide that the policies must require that certain information on pupil achievement which is maintained by the automated system of accountability information for Nevada account for at least 50 percent of the evaluations.**

Section 9 of this bill provides that if a written evaluation of a probationary teacher or probationary administrator states that the overall performance of the teacher or administrator has been designated as "unsatisfactory": (1) the evaluation must include a written statement that the contract of the person so evaluated may not be renewed for the next school year and that the employee may request reasonable assistance in correcting the deficiencies identified in the evaluation; and (2) the person must acknowledge in writing that he or she has received and understands the written statement. **Section 20** of this bill amends **section 9**, effective July 1, 2013, when the four types of designations for the evaluations of teachers and administrators will take effect.

Existing law sets forth certain rights and responsibilities relating to disciplinary measures taken by school districts with respect to probationary and postprobationary teachers and administrators. (NRS 391.311-391.3197) **Section 11** of this bill removes probationary teachers and new employees hired as probationary administrators from the applicability of the provisions governing admonition, demotion, suspension, dismissal and nonreemployment.

Section 12 of this bill revises the grounds for which a teacher may be suspended, dismissed or not reemployed or for which an administrator may

be demoted, suspended, dismissed or not reemployed to include gross misconduct.

Section 13 of this bill provides that a postprobationary teacher who receives an unsatisfactory evaluation must be evaluated three times in the immediately succeeding school year. Effective July 1, 2013, section 14 of this bill provides that a postprobationary teacher who receives an evaluation of "minimally effective" or "ineffective" must be evaluated three times in the immediately succeeding school year.

Section 17 of this bill expands the grounds for which a licensed employee is subject to immediate dismissal or a refusal to reemploy without first receiving a written admonition to include gross misconduct.

Section 18 of this bill authorizes a postprobationary employee who receives notice that he or she will be dismissed before completion of the current school year to request an expedited hearing pursuant to the expedited procedures established by the American Arbitration Association.

Under existing law, a probationary teacher and a probationary administrator serve two 1-year periods as a probationary employee. If the employee receives satisfactory evaluations in the first probationary year, the second probationary year must be waived and the person is entitled to postprobationary employment with the school district. (NRS 391.3197) Section 19 of this bill revises the probationary period from two 1-year periods to three 1-year periods, without a waiver of any of the probationary years. **Section 19 also provides that a probationary employee who receives notice that he or she will be dismissed before the completion of the current school year may request an expedited hearing pursuant to the procedures established by the American Arbitration Association or its successor organization.**

Section 19.6 provides that a board of trustees of a school district that determines a reduction in the existing workforce of the licensed educational personnel in the school district is necessary must not base the decision to lay off a teacher or an administrator solely on the seniority of the teacher or administrator and may consider certain other factors.

Section 1 of Assembly Bill No. 225 of this session provides that if a postprobationary employee receives an unsatisfactory evaluation on an evaluation conducted pursuant to NRS 391.3125 or 391.3127, as applicable, or any other equivalent evaluation system which designates his or her overall performance as below average for 2 consecutive school years, the employee shall be deemed a probationary employee and serve an additional probationary period. Section 20.5 of this bill amends section 1 of Assembly Bill No. 225 to provide that a postprobationary employee must serve an additional probationary period if he or she receives an evaluation for 2 consecutive school years as: (1) minimally effective; (2) ineffective; (3) minimally effective during 1 year of the 2-year consecutive period and ineffective during the other year of the

period; or (4) if evaluated pursuant to any other system of evaluation, any designation which indicates that the overall performance of the employee is below average. Section 23 of this bill provides that section 20.5 becomes effective if, and only if, Assembly Bill No. 225 of this session is enacted by the Legislature and becomes effective.

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

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

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

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

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

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

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made:

(1) Adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(2) Progress based upon the model adopted by the Department pursuant to NRS 385.3595, if applicable for the grade level of pupils enrolled at the school.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) *The total number of persons employed by each school district in this State, including without limitation, each charter school in the district. Each such person must be reported as either an administrator, a teacher or ~~support~~ other staff ~~+~~ and must not be reported in more than one category. In addition to the total number of persons employed by each school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph:*

(1) "Administrator" means a person ~~employed primarily to supervise support~~ who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, ~~in addition to providing administrative services.~~ and who is not classified by the board of trustees of a school district as a professional-technical employee.

(2) ~~"Support"~~ "Other staff" means all persons who are not reported as administrators or teachers ~~+~~, including, without limitation:

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of a school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS ~~primarily to provide~~ who is classified by the board of trustees of a school district;

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils ~~+~~; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(I) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

(I) On and after July 1, 2005, the 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 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 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 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.

~~[(4)]~~ **(m)** The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

~~[(m)]~~ **(n)** The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

~~[(n)]~~ **(o)** For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

~~[(o)]~~ **(p)** The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

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

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

(3) Withdraw from school to attend another school.

~~[(p)]~~ **(q)** The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

~~[(q)]~~ **(r)** Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

~~[(r)]~~ **(s)** Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

~~[(s)]~~ **(t)** The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

~~[(t)]~~ **(u)** The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district,

including, without limitation, each charter school in the district, and for this State as a whole.

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

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

~~[(w)]~~ **(x)** Each source of funding for this State to be used for the system of public education.

~~[(x)]~~ **(y)** A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

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

~~[(y)]~~ **(z)** The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

~~[(z)]~~ **(aa)** The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

~~[(aa)]~~ **(bb)** For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

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

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

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

(2) An adjusted diploma.

(3) A certificate of attendance.

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

~~[(ee)]~~ **(dd)** The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

~~[(dd)]~~ **(ee)** Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

~~[(ee)]~~ **(ff)** An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

~~[(ff)]~~ **(gg)** A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

~~[(gg)]~~ **(hh)** For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

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

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

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

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

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

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

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

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

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

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "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. 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 the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State

Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

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

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

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

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

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

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

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

(10) Information on whether each school in the district, including, without limitation, each charter school in the district, has made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

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

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

(d) *The total number of persons employed for each elementary school, middle school or junior high school, and high school in the district, including, without limitation, each charter school in the district. Each such person must be reported as either an administrator, a teacher or ~~support~~ other staff ~~and must not be reported in more than one category.~~ In addition to the total number of persons employed by each school in each category, the report must include the number of employees in each of the three categories for each school expressed as a percentage of the total number of persons employed by the school. As used in this paragraph:*

(1) "Administrator" means a person ~~employed primarily to supervise support~~ who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, ~~in addition to providing administrative services.~~ and who is not classified by the board of trustees of the school district as a professional-technical employee.

(2) ~~"Support"~~ "Other staff" means all persons who are not reported as administrators or teachers ~~and~~, including, without limitation:

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of the school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) *"Teacher" means a person licensed pursuant to chapter 391 of NRS who is ~~employed primarily to provide~~ classified by the board of trustees of the school district:*

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils ~~+~~; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(e) The total number of persons employed by the school district, including without limitation, each charter school in the district. Each such person must be reported as either an administrator, a teacher or ~~support~~ other staff ~~+~~ and must not be reported in more than one category. In addition to the total number of persons employed by the school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph ~~+~~

~~*(1) "Administrator" means a person employed primarily to supervise support staff or licensed personnel, or both, in addition to providing administrative services.*~~

~~*(2) "Support staff" means all persons who are not reported as administrators or teachers.*~~

~~*(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS who is employed primarily to provide instruction to pupils. ~~+~~, "administrator," "other staff" and "teacher" have the meanings ascribed to them in paragraph (d).*~~

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

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

(I) On and after July 1, 2005, the 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 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 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 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)]~~ **(g)** The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

~~[(f)]~~ **(h)** The curriculum used by the school district, including:

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

(2) The curriculum used by each charter school in the district.

~~[(g)]~~ **(i)** Records of the attendance and truancy of pupils in all grades, including, without limitation:

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

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

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

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

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

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

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

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

~~[(m)]~~ **(o)** Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

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

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

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

~~[(q)]~~ **(s)** Each source of funding for the school district.

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

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

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

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

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

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

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

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

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

(2) An adjusted diploma.

(3) A certificate of attendance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~{(ee)}~~ **(gg)** Such other information as is directed by the Superintendent of Public Instruction.

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

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

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

4. The annual report of accountability prepared pursuant to subsection 2 must:

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

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

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

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

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

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph ~~{(g)}~~ **(i)** of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

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

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 801(23).

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

Sec. 3. 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 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)]~~ **(m) to (p)**, inclusive, of subsection 2 of NRS 385.347.

2. On or before November 1, the support team 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.

Sec. 4. 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 ~~†(†)~~ (I) of subsection 2 of NRS 385.347;

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

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

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

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

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

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

9. On or before July 1 of each year, submit a report to the Legislative 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. 5. NRS 386.520 is hereby amended to read as follows:

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

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

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

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

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

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive.

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

(1) Improving the opportunities for pupils to learn;
(2) Encouraging the use of effective methods of teaching;
(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability of public schools;

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

(6) Creating new professional opportunities for teachers.

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

(d) The proposed dates 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 ~~††~~ **and section 9 of this act**. If the procedure is different from the procedure prescribed in NRS 391.3125 ~~††~~ **and section 9 of this act**, 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 ~~††~~ **and section 9 of this act**.

(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 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 of its approval or denial of the application. If the Department denies an application, the Department shall include in the written notice the reason 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. 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. 6. 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 ~~4(t)~~ (v) of subsection 2 of NRS 385.347;
- (d) The results of the assessment of needs conducted pursuant to subsection 6; and
- (e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

- (a) Incorporate educational technology into the public schools of this State;
- (b) Increase the number of pupils in the public schools of this State who have access to educational technology;
- (c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;
- (d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and
- (e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

- (a) Administrative support;
- (b) Equipment; and
- (c) Office space,

➡ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

- (a) The State Board.
- (b) The board of trustees of each school district.
- (c) The superintendent of schools of each school district.
- (d) The Department.

5. The Commission shall:

- (a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to

ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➔ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative 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. 7. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. 1. *The board of trustees of each school district shall:*

(a) Establish a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators which must be negotiated pursuant to chapter 288 of NRS; and

(b) Commencing with the 2014-2015 school year, implement the program established pursuant to paragraph (a).

2. *The program of performance pay and enhanced compensation established by a school district pursuant to subsection 1 must have as its primary focus the improvement in the academic achievement of pupils and must give appropriate consideration to implementation in at-risk schools. In addition, the program may include, without limitation, the following components:*

(a) Career leadership advancement options to maximize the retention of teachers in the classroom and the retention of administrators;

(b) Professional development;

(c) Group incentives; and

(d) Multiple assessments of individual teachers and administrators, with primary emphasis on individual pupil improvement and growth in academic achievement, including, without limitation, portfolios of instruction, leadership and professional growth, and other appropriate measures of teacher and administrator performance which must be considered.

Sec. 9. 1. *If a written evaluation of a probationary teacher or probationary administrator designates the overall performance of the teacher or administrator as "unsatisfactory":*

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive two evaluations for this school year which designate your performance as 'unsatisfactory,' and if you have another evaluation remaining this school year, you may request that the evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in correcting the deficiencies reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in correcting those deficiencies."

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the ~~superintendent and the~~ probationary teacher or probationary administrator, as applicable ~~for~~, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator requests assistance in correcting deficiencies reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in correcting those deficiencies.

Sec. 10. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, **and section 9 of this act**, unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, **and section 9 of this act** is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.

6. "Probationary employee" means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

Sec. 11. NRS 391.3115 is hereby amended to read as follows:

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, and section 9 of this act do not apply to:

- (a) Substitute teachers; or
- (b) Adult education teachers.

2. *The admonition, demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3194, inclusive, do not apply to:*

(a) A probationary teacher. The policy for evaluations prescribed in NRS 391.3125 and section 9 of this act applies to a probationary teacher.

(b) A new employee who is employed as a probationary administrator. The policy for evaluations prescribed in NRS 391.3127 and section 9 of this act applies to a probationary administrator.

3. *The admonition, demotion and suspension provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a postprobationary teacher who is employed as a probationary administrator with respect to his or her employment in the administrative position. The policy for evaluations prescribed in NRS 391.3127 and section 9 of this act applies to a probationary administrator.*

4. The provisions of NRS 391.311 to 391.3194, inclusive, and section 9 of this act do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.

~~§~~ 5. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, and section 9 of this act for demotion, suspension or dismissal apply to them.

Sec. 12. NRS 391.312 is hereby amended to read as follows:

391.312 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

- (a) Inefficiency;
- (b) Immorality;
- (c) Unprofessional conduct;

- (d) Insubordination;
- (e) Neglect of duty;
- (f) Physical or mental incapacity;
- (g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;
- (h) Conviction of a felony or of a crime involving moral turpitude;
- (i) Inadequate performance;
- (j) Evident unfitness for service;
- (k) Failure to comply with such reasonable requirements as a board may prescribe;
- (l) Failure to show normal improvement and evidence of professional training and growth;
- (m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;
- (n) Any cause which constitutes grounds for the revocation of a teacher's license;
- (o) Willful neglect or failure to observe and carry out the requirements of this title;
- (p) Dishonesty;
- (q) Breaches in the security or confidentiality of the questions and answers of the achievement and proficiency examinations that are administered pursuant to NRS 389.015;
- (r) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations adopted pursuant to NRS 389.616 or 389.620; ~~for~~
- (s) An intentional violation of NRS 388.5265 or 388.527 ~~for~~ ; *or*
- (t) Gross misconduct.**

2. In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

3. *As used in this section, "gross misconduct" includes any act or omission that is in wanton, willful, reckless or deliberate disregard of the interests of a school or school district or a pupil thereof.*

Sec. 13. NRS 391.3125 is hereby amended to read as follows:

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

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to

be satisfactory or unsatisfactory. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

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

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

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

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

~~—5.— {Each}~~ Except as otherwise provided in this subsection, each postprobationary teacher must be evaluated at least once each year. If a postprobationary teacher receives an unsatisfactory evaluation, the postprobationary teacher must be evaluated three times in the immediately succeeding school year. An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes.

~~{6.—}~~ If a postprobationary teacher is evaluated three times in a school year and he or she receives an unsatisfactory evaluation on the first or second evaluation, or both evaluations, the postprobationary teacher may request that the third evaluation be conducted by another administrator. If

a postprobationary teacher requests that his or her third evaluation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

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

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

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

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

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

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

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

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

~~7.7~~ 6. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.

Sec. 14. NRS 391.3125 is hereby amended to read as follows:

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

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance ~~may be~~ is determined to be ~~satisfactory or unsatisfactory~~ **highly effective, effective, minimally effective or ineffective. The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for at least 50 percent of the evaluation.** The policy may include an evaluation by the teacher, pupils,

administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

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

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

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

4. Except as otherwise provided in this subsection, each postprobationary teacher must be evaluated at least once each year. If a postprobationary teacher receives an ~~unsatisfactory~~ evaluation ~~that~~ **designating his or her overall performance as minimally effective or ineffective.** the postprobationary teacher must be evaluated three times in the immediately succeeding school year. An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes. If a postprobationary teacher is evaluated three times in a school year and he or she receives an ~~unsatisfactory~~ evaluation **designating his or her overall performance as minimally effective or ineffective** on the first or second evaluation, or both evaluations, the postprobationary teacher may request that the third evaluation be conducted by another administrator. If a postprobationary teacher requests that his or her third evaluation be conducted by another administrator, that administrator must be:

- (a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and
- (b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

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

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

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

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

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

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

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

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

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

Sec. 15. NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must set forth a means according to which an administrator's overall performance may be determined to be satisfactory or unsatisfactory. The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board must be filed with the Department and made available to the Commission.

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

3. ***Each probationary administrator is subject to the provisions of NRS 391.3197 and section 9 of this act.***

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

The board shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board is final.

Sec. 16. NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must set forth a means according to which an administrator's overall performance ~~may be~~ is determined to be ~~satisfactory or unsatisfactory~~ ***highly effective, effective, minimally effective or ineffective.*** **The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for at least 50 percent of the evaluation.** The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board must be filed with the Department and made available to the Commission.

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

3. Each probationary administrator is subject to the provisions of NRS 391.3197 and section 9 of this act.

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

Sec. 17. NRS 391.313 is hereby amended to read as follows:

391.313 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that the administrator believes may lead to demotion or dismissal or may cause the employee not to be reemployed under the provisions of NRS 391.312, the administrator shall:

(a) Except as otherwise provided in subsection 3, bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to the employee's demotion, dismissal or a refusal to reemploy him or her, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for the employee's potential demotion, dismissal or a potential recommendation not to reemploy him or her; and

(b) Except as otherwise provided in NRS 391.314, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

↪ The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for the employee by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

3. An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his or her employment will be terminated pursuant to NRS 391.3197. ~~¶ If by March 1 of the first or second year of the employee's probationary period a probationary employee does not receive a written notice pursuant to subsection 4 of NRS 391.3125 of a potential decision not to reemploy him or her, the employee must receive an admonition before any such decision is made.¶~~

4. A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.311 to 391.3197, inclusive, **and section 9 of this act** without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h) , ~~and~~ (p) **and (t)** of subsection 1 of NRS 391.312.

Sec. 18. NRS 391.317 is hereby amended to read as follows:

391.317 1. At least 15 days before recommending to a board that it demote, dismiss or not reemploy a postprobationary employee, ~~for dismiss or demote a probationary employee,¶~~ the superintendent shall give written notice to the employee, by registered or certified mail, of the superintendent's intention to make the recommendation.

2. The notice must:

(a) Inform the licensed employee of the grounds for the recommendation.

(b) Inform the employee that, if a written request therefor is directed to the superintendent within 10 days after receipt of the notice, the employee is entitled to a hearing before a hearing officer ~~¶~~ **pursuant to NRS 391.315 to 391.3194, inclusive, or if a dismissal of the employee will occur before the completion of the current school year, the employee may request an expedited hearing pursuant to subsection 3.**

(c) Refer to chapter 391 of NRS.

3. If a postprobationary employee receives notice pursuant to subsection 1 that he or she will be dismissed before the completion of the current school year, the employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization. If the employee elects to proceed under the expedited procedures, the provisions of NRS 391.3161, 391.3192 and 391.3193 do not apply.

Sec. 19. NRS 391.3197 is hereby amended to read as follows:

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

2. The board shall notify each probationary employee in writing on or before May 1 of the first , ~~and~~ second **and third** school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second **or third** year of the probationary period or for the ~~next~~ **fourth** school year as a postprobationary employee. ***Failure of the board to notify the probationary employee in writing on or before May 1 in the first or second year of the probationary period does not entitle the employee to postprobationary status.*** The employee must advise the board in writing on or before May 10 of the first , ~~or~~ second **or third** year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in ~~both~~ the first , ~~and~~ second **and third** years of the employee's probationary period, no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second **or third** year of the probationary period or for the ~~next~~ **fourth** school year as a postprobationary employee. ***Failure of the board to notify a probationary employee in writing within the prescribed period in the first or second year of the probationary period does not entitle the employee to postprobationary status.*** The employee must advise the board in writing within 10 days after the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment ***pursuant to this subsection*** constitutes rejection of the contract.

3. A probationary employee who ~~completes~~ :

(a) **Completes** a ~~2-year~~ **3-year** probationary period ~~and receives~~ ;

(b) **Receives a designation of "satisfactory" on each of his or her performance evaluations for 2 consecutive school years; and**

(c) **Receives** a notice of reemployment from the school district in the ~~second~~ **third** year of the employee's probationary period .

☞ is entitled to be a postprobationary employee in the ensuing year of employment.

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

~~the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of the employee's probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.~~

~~—5.†~~ If a probationary employee is notified that the employee will not be reemployed for the ~~second year of the employee's probationary period or the ensuing~~ school year ~~†~~, **following the 3-year probationary period**, his or her employment ends on the last day of the current school year. The notice that the employee will not be reemployed must include a statement of the reasons for that decision.

~~†6.†~~ 5. A new employee **who is employed as an administrator** or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a ~~2-year~~ **3-year** probationary period as an administrator in accordance with the provisions of this section. ~~If the administrator does not receive an unsatisfactory evaluation during the first year of probation, the superintendent or the superintendent's designee shall waive the second year of the administrator's probationary period. Such an administrator is entitled to be a postprobationary employee in the ensuing year of employment.†~~ If:

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

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

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

~~†7.†~~ 6. An administrator who has completed his or her probationary period pursuant to subsection ~~†6.†~~ 5 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. **If an administrator is promoted to the position of principal before completion of his or her probationary period pursuant to subsection 5, the administrator must serve the remainder of his or her probationary period pursuant to subsection 5 or an additional probationary period of 1 year in the position of principal, whichever is longer.** If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the **probationary period or** additional probationary period, **as applicable**, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a

contract, the person shall be deemed to have rejected the offer of employment.

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

7. If a probationary employee receives notice that he or she will be dismissed before the completion of the current school year, the probationary employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization.

Sec. 19.5. NRS 391.3197 is hereby amended to read as follows:

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

2. The board shall notify each probationary employee in writing on or before May 1 of the first, second and third school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify the probationary employee in writing on or before May 1 in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing on or before May 10 of the first, second or third year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in the first, second and third years of the employee's probationary period, no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify a probationary employee in writing within the prescribed period in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing within 10 days after the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment pursuant to this subsection constitutes rejection of the contract.

3. A probationary employee who:

- (a) Completes a 3-year probationary period;
- (b) Receives a designation of ~~"satisfactory"~~ **"highly effective" or "effective"** on each of his or her performance evaluations for 2 consecutive school years; and
- (c) Receives a notice of reemployment from the school district in the third year of the employee's probationary period,

↪ is entitled to be a postprobationary employee in the ensuing year of employment.

4. If a probationary employee is notified that the employee will not be reemployed for the school year following the 3-year probationary period, his or her employment ends on the last day of the current school year. The notice that the employee will not be reemployed must include a statement of the reasons for that decision.

5. A new employee who is employed as an administrator or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 3-year probationary period as an administrator in accordance with the provisions of this section. If:

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

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

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

6. An administrator who has completed his or her probationary period pursuant to subsection 5 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If an administrator is promoted to the position of principal before the completion of his or her probationary period pursuant to subsection 5, the administrator must serve the remainder of his or her probationary period pursuant to subsection 5 or an additional probationary period of 1 year in the position of principal, whichever is longer. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the probationary period or additional probationary period, as applicable, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

7. If a probationary employee receives notice that he or she will be dismissed before the completion of the current school year, the employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization.

Sec. 19.6. Chapter 288 of NRS is hereby amended by adding thereto a new section to read as follows:

If the board of trustees of a school district determines that a reduction in the existing workforce of the licensed educational personnel in the school district is necessary, the decision to lay off a teacher or an administrator must not be based solely on the seniority of the teacher or administrator and may include, without limitation, a consideration of the following factors:

- 1. Whether the teacher or administrator is employed in a position which is hard to fill;*
- 2. Whether the teacher or administrator has received a national board certification;*
- 3. The performance evaluations of the teacher or administrator;*
- 4. The disciplinary record of the teacher or administrator within the school district;*
- 5. The criminal record of the teacher or administrator, if any;*
- 6. The type of licensure held by the teacher or administrator; and*
- 7. The type of degree attained by the teacher or administrator and whether the degree is in a subject area that is related to his or her position.*

Sec. 19.7. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as provided in subsection 4, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

- (a) Salary or wage rates or other forms of direct monetary compensation.
- (b) Sick leave.
- (c) Vacation leave.
- (d) Holidays.
- (e) Other paid or nonpaid leaves of absence.
- (f) Insurance benefits.
- (g) Total hours of work required of an employee on each workday or workweek.
- (h) Total number of days' work required of an employee in a work year.
- (i) Discharge and disciplinary procedures.
- (j) Recognition clause.
- (k) The method used to classify employees in the bargaining unit.
- (l) Deduction of dues for the recognized employee organization.
- (m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.
- (n) No-strike provisions consistent with the provisions of this chapter.
- (o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

- (p) General savings clauses.
- (q) Duration of collective bargaining agreements.
- (r) Safety of the employee.
- (s) Teacher preparation time.
- (t) Materials and supplies for classrooms.
- (u) The policies for the transfer and reassignment of teachers.
- (v) Procedures for reduction in workforce ~~that~~ consistent with the provisions of this chapter.

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

- (a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.
- (b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.
- (c) The right to determine:
 - (1) Appropriate staffing levels and work performance standards, except for safety considerations;
 - (2) The content of the workday, including without limitation workload factors, except for safety considerations;
 - (3) The quality and quantity of services to be offered to the public; and
 - (4) The means and methods of offering those services.
- (d) Safety of the public.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. This section does not preclude, but this chapter does not require the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

7. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 19.8. NRS 288.195 is hereby amended to read as follows:

288.195 Whenever an employee organization enters into negotiations with a local government employer, pursuant to NRS 288.140 to 288.220, inclusive, **and section 19.6 of this act,** such employee organization may be represented by an attorney licensed to practice law in the State of Nevada.

Sec. 20. Section 9 of this act is hereby amended to read as follows:

Sec. 9. 1. If a written evaluation of a probationary teacher or probationary administrator designates the overall performance of the teacher or administrator as ~~["unsatisfactory"]~~ ***"minimally effective" or "ineffective"***:

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive two evaluations for this school year which designate your performance as ~~["unsatisfactory,"]~~ ***'minimally effective' or 'ineffective,'*** and if you have another evaluation remaining this school year, you may request that the evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in correcting the deficiencies reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in correcting those deficiencies."

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator requests assistance in correcting deficiencies reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in correcting those deficiencies.

Sec. 20.5. Section 1 of Assembly Bill No. 225 of this session is hereby amended to read as follows:

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

A postprobationary employee who receives an ~~["unsatisfactory evaluation pursuant to NRS 391.3125 or 391.3127, as applicable, or any other~~

~~equivalent~~ evaluation designating his or her overall performance as ~~below average~~;

1. If evaluated pursuant to NRS 391.3125 or 391.3127, as applicable:

(a) Minimally effective;

(b) Ineffective; or

(c) Minimally effective during 1 year of the 2-year consecutive period and ineffective during the other year of the period; or

2. If evaluated pursuant to any other system of evaluation, any designation which indicates that the overall performance of the employee is below average.

↪ for 2 consecutive school years shall be deemed to be a probationary employee for the purposes of NRS 391.311 to 391.3197, inclusive, and section 9 of Assembly Bill No. 229 of this session, and must serve an additional probationary period in accordance with the provisions of NRS 391.3197.

Sec. 21. The provisions of section 9 of this act, NRS 391.311 to 391.3125, inclusive, as amended by sections 10 to 13, inclusive, of this act, NRS 391.3127, as amended by section 15 of this act, NRS 391.313, as amended by section 17 of this act, NRS 391.317, as amended by section 18 of this act, and NRS 391.3197, as amended by section 19 of this act, apply to all:

1. Teachers who are initially employed by a school district on or after July 1, 2011.

2. A new employee who is hired by a school district as an administrator on or after July 1, 2011.

3. A postprobationary teacher who is employed as an administrator on or after July 1, 2011.

Sec. 22. The board of trustees of each school district shall:

1. Commencing with the 2013-2104 school year, implement and carry out the policies for evaluations of teachers and administrators required by NRS 391.3125, as amended by section 14 of this act, NRS 391.3127, as amended by section 16 of this act, NRS 391.3197, as amended by section 19.5 of this act, and section 20 of this act.

2. Commencing with the 2013-2014 school year, implement and carry out section 20.5 of this act if, and only if, Assembly Bill No. 225 of this session is enacted by the Legislature and becomes effective.

3. Commencing with the 2014-2015 school year, implement and carry out the program of performance pay and enhanced compensation established by the board of trustees pursuant to section 8 of this act.

Sec. 23. 1. This section and sections 1 to 7, inclusive, 9 to 13, inclusive, 15, 17, 18, 19, 19.6, 19.7, 19.8, 21 and 22 of this act become effective on July 1, 2011.

2. Sections 8, 14, 16, 19.5 and 20 of this act become effective on July 1, 2013.

3. Section 20.5 of this act becomes effective on July 1, 2013, if, and only if, Assembly Bill No. 225 of this session is enacted by the Legislature and becomes effective.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

The amendment makes numerous changes to the bill. The significant changes include revisions to the reporting requirements for ratios of certain staff to include new definitions for teachers, instructional support staff, administrators and other staff.

It provides that a post-probationary teacher receiving an evaluation of unsatisfactory must be evaluated three times during the next school year.

It clarifies that an educator entitled to three evaluations in a contract year who receives a negative evaluation on the first or second evaluation may request the third evaluation be conducted by an outside evaluator selected from a list of three candidates submitted by the superintendent of the school district.

It specifies that, with reference to an evaluation of a public school teacher or administrator, the term "unsatisfactory" is to be replaced by "minimally effective or ineffective," to reflect the new terminology that will be in place after July 1, 2013.

It requires that the policy for educator performance evaluations require that at least 50 percent of the evaluation be based upon certain information concerning longitudinal comparisons of student achievement data.

It provides that a probationary employee must receive a satisfactory performance rating for two consecutive years before he or she receives a notice of reemployment from the school district in the last year of the employee's probationary period, and is entitled to be a post-probationary employee in the ensuing year of employment.

It provides for an expedited hearing, upon request, for a new probationary employee if the employee receives a notice of dismissal before the completion of the school year.

It provides that if the school district board of trustees determines that a reduction of workforce is necessary, the decision to lay off a teacher or administrator must not be based solely on seniority and may include consideration of whether the person is in a hard to fill position, attainment of National Board certification, performance evaluations, disciplinary records, criminal records, type of license held, and degree attainment germane to the position.

It amends certain sections of Assembly Bill No. 225 to make them parallel and consistent with changes made within Assembly Bill No. 229. These portions of the amendment take effect if and only if Assembly Bill No. 225 also is enacted.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that rules be suspended, that the reprinting of Assembly Bills Nos. 225, 229, be dispensed with, and placed on General File on this agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 225.

Bill read third time.

Remarks by Senators Denis, Schneider, Kieckhefer and Roberson.

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

SENATOR DENIS:

We have spent a lot of time this Session talking about education and education reform. These two bills form what is the basis of all the reforms we are talking about. There are several other bills. To get to this point we have had to work with all factions in the education community. Not everyone is happy with everything that is in this bill. Not everyone is unhappy with everything that is here. We have created a starting point for reform. There are some significant things in this bill. In the end, these are reforms that will help our children. It is not perfect. There will need to be adjustments in the future. Assembly Bill No. 225 specifically talks about post-probationary employees. This is a good bill. It will be good for our students in Nevada. I urge your support.

SENATOR SCHNEIDER:

We are all experts on education because we all went to school. Here we are dinking around again with education. In the ten sessions I have been in this Legislature, we have dinked with education because we are experts. We went to school. Some of us even went to college. That makes us experts. We dink around, we dink around, and we dink around. That is all we do and we mess things up more. This is just another half attempt at trying to do something. When was the last time you asked the professionals in education, "What is it going to take to get good students? What is it going to take?"

This is like building a football team. What is it going to take to get a winning team? You have to pay for it.

We are asking our teachers to take a pay cut. We are asking them to work more days. We are asking them to put more students in the classroom. Then we write an amendment that says this is reform and, now, it will be better. This is a joke. What we are doing tonight is a joke. I realize it is tied to the budget negotiations, but it is a joke. We are not building a better team. This is another attempt at tearing education up. That is what we are really doing.

We should be asking them what does it take to get us better students. It takes smaller schools. I have tried to do that in the past. Everyone with the Clark County School District who testified stated they would rather have students in smaller schools. Private schools are smaller schools. That makes a big difference. How about having schools with windows? That may give you better students. We do not pursue any of these ideas. We build the biggest schools we can to get the biggest bang for our buck. We jam the students in. There are 3,000 or 4,000 in a high school. We have middle schools with over 3,000 in Las Vegas. We lose students because they are just numbers. We do not listen to the professionals in education. We dink around because we are the experts. We went to school.

This is as if we have amended how you sell cars. We could tell people how to sell cars, but we do not do that because we would be interfering with private business. This is just another attempt at futility. This bill does not make education better. We need to look at ourselves. We need to stop and think about it. We fund education at the worst level in the nation, but we build the biggest schools in the nation. We fail our system. We fail our students, because we can save a buck. We can do it a little cheaper.

I appreciate what the Chair of Education is doing. He is trying. But, we are failing. I appreciate that the Majority Leader is trying to get some reform, trying to close this budget. I know we will have to vote for this. We will walk out of here saying we have done something good. But, thank you, Mr. President, this is not any good.

SENATOR KIECKHEFER:

I rise in support of Assembly Bill No. 225. I respectfully disagree with my colleague from Clark District No. 11. I have spoken several times this Session about the system we utilize to provide education to our children. I believe this bill as well as Assembly Bill No. 229, along with other bills making their way through this Legislative Body, are a significant improvement to the system of education in our State. I would like to thank the Chair of the Education Committee for processing these bills and amendments and putting the teeth into these bills that

are necessary to ensure that we can provide our children with the education they deserve and that we know they need in order to give them the future they want. I will support these bills. I encourage every member of this body to do the same and to feel good about their vote when they walk out of these Chambers. This is a good thing for our State.

SENATOR ROBERSON:

Thank you, Mr. President. I do not disagree with everything that the Senator from Clark District No. 11 had to say. We are dinking around the edges here. It is a good start, but it has taken four months to get to this point and the teachers' union is still objecting. They do not want this minimal reform. I would love to talk about sweeping education reform. I would like to talk about school choice on the ballot, but the majority party wanted no part of that. I want to give parents and children a choice in their education. Maybe they could choose a school with windows among other things. I do not disagree with everything the Senator from Clark District No. 11 says, but as long as we are going to let the teachers' union run our education system in this State, we are not going to get sweeping reforms.

SENATOR DENIS:

Many people came to the table to work on these bills. The teachers' union came to the table. There are parts of this they do not like. But, they also came forward and worked on this. I know that the sponsor has worked on these bills for over a year and a half. I appreciate everyone coming forward. It may not be a perfect thing, but the teachers' union did come forward. They are trying to do what is right for students, too. This is a good bill and we will see some good results from this.

SENATOR ROBERSON:

I appreciate my colleague from southern Nevada's comments. Let us be clear about one thing. The teachers' unions are not just concerned about parts of this bill. They have just sent us all an e-mail, a vote alert, the NSEA is strongly opposed to this bill. Here we are on May 30 and we have been working on this for months. They are still fighting tooth and nail against minimal education reform. That is the reality.

Senator McGinness moved the previous question, sustained by Senators Settlemeyer and Cegavske

Motion carried.

The question being on the passage of Assembly Bill No. 225

Roll call on Assembly Bill No. 225:

YEAS—18.

NAYS—Breedon, Kihuen, Manendo—3.

Assembly Bill No. 225 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 229.

Bill read third time.

Remarks by Senators Denis and Lee

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

SENATOR DENIS:

This bill is a companion bill to Assembly Bill No. 225. They work together. Assembly Bill No. 229 is a continuation of reforms for evaluation of teachers and administrators and revises the probationary period for teachers and administrators from two one-year periods to three one-year periods.

SENATOR LEE:

I would like to ask a question. If the post-probationary teachers' evaluation shows an unsatisfactory evaluation, they will have three more evaluations throughout the year. The bill says, "If for not less than a cumulative total of 60 minutes in each evaluation period, with one observation, 60 minute evaluation period consisting of at least 30 consecutive minutes." Do we make the evaluation of the teacher three times in three hours and that removes them? What are the other things besides sitting down and watching a teacher teach that gives a good or bad evaluation within that 60 minute period? On page 25, line 34 it says, "Administrator charged with the evaluation of a post-probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period." Are we evaluating the careers of these people by observing them for 20 minutes, returning to the office, then coming back to the classroom to evaluate them for another 20 minutes? How does this postprobationary performance evaluation take place? It seems draconian to me to terminate someone based on this evaluation.

SENATOR DENIS:

They do have a procedure they follow. They have a formal evaluation process, but it does not preclude the principal from observing the teacher many times on a regular basis. The process they follow examines where the teacher is. The procedure is determined by the district. It is not determined by the Legislature. This is a fair procedure by which to evaluate them.

SENATOR LEE:

A teacher is evaluated, but is that teacher compared to other teachers teaching the same course? Are there other things that go into the evaluation rather than just an administrator watching the teacher for 60 minutes?

SENATOR DENIS:

There are standards that teachers have to follow. They will use those and the evaluation will compare them to the standards. They are not going to be compared to other teachers. The growth of the students will also be taken into consideration as the teacher is evaluated.

SENATOR LEE:

That does not completely answer my question.

Roll call on Assembly Bill No. 229:

YEAS—20.

NAYS—Lee.

Assembly Bill No. 229 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 88, 102, 112, 128, 132, 205, 210, 213, 221, 246, 300, 411, 417, 430, 445; Assembly Bills Nos. 17, 122, 500, 501, 519, 521.

Senator Horsford moved that the Senate adjourn until Tuesday, May 31, 2011, at 11 a.m. and that it do so in honor of Memorial Day.

Motion carried.

Senate adjourned at 12 a.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate