THE ONE HUNDRED AND NINETEENTH DAY

CARSON CITY (Sunday), June 5, 2011

Senate called to order at 4:51 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Dear God, We ask that You will lead us into all truth, prepare our hearts and minds for the business of this day, that we may behave with true courtesy and honor.

Compel us to be just and honest in our dealings. Let our motives be above suspicion. Let our words be our bond.

Save us from the fallacy of depending upon our personality or ingenuity or position to solve our problems. Since You have the answers, make us willing to listen to You, that we may vote on Your side and that Your will may be done in us.

These things we ask in Your Name.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 380, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 74, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

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

Also, your Committee on Education, to which was re-referred Senate Bill No. 197, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MO DENIS, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 427, 428, 473, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which were re-referred Senate Bills Nos. 227, 313, 360, 371, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 123, 316, 345, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 300, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which was referred Assembly Bill No. 552, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

VALERIE WIENER, *Chair*

Mr. President:

Your Select Committee on Economic Growth and Employment, to which was referred Assembly Bill No. 574, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RUBEN J. KIHUEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 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. 43, 94, 106, 113, 126, 133, 154, 186, 187, 194, 222, 293, 405.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, June 1, 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. 54, 429, 442, 452, 475, 477, 498, 499.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, June 2, 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. 60, 443, 446.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, June 4, 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. 207, 208; Assembly Bill No. 579.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 542.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 440, Amendment No. 896, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendments Nos. 686, 845 to Assembly Bill No. 80; Senate Amendments Nos. 694, 851 to Assembly Bill No. 223, Senate Amendment No. 875 to Assembly Bill No. 359.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 803 to Assembly Bill No. 524; Senate Amendment No. 878 to Assembly Bill No. 525.

Also, I have the honor to inform your honorable body that the Assembly on this day receded from its action on Senate Bill No. 304, Assembly Amendment No. 804.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 99, Assembly Amendment No. 723, and requests a conference, and appointed Assemblymen Carlton, Ohrenschall and Hickey as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 294, Assembly Amendment No. 815, and requests a conference, and appointed Assemblymen Atkinson, Carlton and Ellison as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Carlton, Pierce and Grady as a Conference Committee concerning Assembly Bill No. 77.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Carlton, Segerblom and Hickey as a Conference Committee concerning Assembly Bill No. 199.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Segerblom, Daly and Goedhart as a Conference Committee concerning Assembly Bill No. 433.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the report of the Conference Committee concerning Senate Bill No. 264.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the report of the Conference Committee concerning Assembly Bill No. 277.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, June 5, 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. 129, 278, 338, 374, 423, 447, 449, 471, 476, 480, 503, 504, 505; Assembly Bill No. 580.

I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 168, Assembly Amendment No. 881, and requests a conference, and appointed Assemblymen Carlton, Bustamante Adams and Goedhart as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Bobzien, Daly and Hickey as a Conference Committee concerning Assembly Bill No. 376.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 552 be re-referred to the Committee on Finance.

Motion carried.

Senator Wiener moved that for the remainder of this Legislative Session, that all necessary rules be suspended, reading so far be considered to have fulfilled the requirements of second reading, and that all bills and joint resolutions reported out of committee with a "Do pass" (without amendments) recommendation be declared emergency measures under the

Constitution and be immediately placed on the appropriate reading files on the next agenda time permitting.

Motion carried.

Senator Wiener moved that for the remainder of this Legislative Session, that all bills and resolutions reported out of committee with amendments be immediately placed on the appropriate reading files, time permitting.

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 5:01 p.m.

SENATE IN SESSION

At 5:06 p.m.

President Krolicki presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 579.

Senator Horsford moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 580.

Senator Horsford moved that the bill be referred to the Committee on Finance.

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 5:08 p.m.

SENATE IN SESSION

At 8:09 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 579, 580, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

STEVEN A. HORSFORD, *Chair*

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 542.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 11.

Bill read third time.

Roll call on Senate Bill No. 11:

YEAS—20.

NAYS—None.

ABSENT—Schneider.

Senate Bill No. 11 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 115.

Bill read third time.

Remarks by Senators Kieckhefer, Hardy, Copening, Schneider, Horsford and Roberson.

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

SENATOR KIECKHEFER:

Thank you, Mr. President. I have numerous problems with this bill. I would like to discuss a few of my concerns.

This bill is trying to address a problem through legislation that exists between an individual and their insurance company. If an individual is in an automobile accident and they are taken by ambulance to an emergency room that is out of network of their insurance company, this bill requires the hospital that takes that person, to accept the level of payment that is dictated by us, the Legislature. They are not allowed to bill for the cost of providing that service.

There are opportunities to contract with insurance companies. Most insurance companies cover a situation such as I have described. If you are an employee of the State of Nevada and are covered by PEBP and you are in a car accident and are taken to an out of network hospital, you are covered until you are stabilized and then transferred to a hospital in your network. For the Legislature to get in between the individual, their insurance company, and the hospital is inappropriate. We will be forcing hospitals to take a rate that is below the cost of providing service. We are already paying them less than the cost of service for Medicare and Medicaid. We are now asking them to take less from a private insurance company as well. This will result in a reduction in the level of service that hospitals are able to provide. We will lose access to services throughout our State. We are picking a winner and a loser. I think this is inappropriate. It will discourage insurers from contracting with hospitals if they are already guaranteed payment. They have stability they are looking for without having to go into contract. I find this inappropriate. I respectfully request you vote against this bill.

SENATOR HARDY:

Thank you, Mr. President. I agree with the Senator from Washoe District No. 4.

SENATOR COPENING:

Thank you, Mr. President. I know all of you have heard my lengthy explanation of Senate Bill No. 115 yesterday. There have been changes that have been made. The percentages have gone

up significantly. Various changes have been on the Assembly side to continue with the improvement of this bill. The reason this bill is important is that we have too many situations where a patient out of no choice of their own ends up in an emergency hospital room where they are not covered because it is an out of network hospital or it may be an in network hospital with an out of network physician. The patient is then responsible for a very large medical bill. We have had many people who have had to file medical bankruptcy as a result of this.

This bill attempts to come up with a fair payment schedule for physicians and hospitals so the patient is removed from the situation and the hospital and the physician will be reimbursed fairly. It allows for mediation in the event that a physician or a hospital does not believe that they are being reimbursed fairly.

I know this bill is not perfect, but the situation many patients face is not a good one, either. I will vote and stand in support of this bill. I have worked very hard with all sides involved to try to arrive at something reasonable. We will continue to work on this as much as we need to.

SENATOR SCHNEIDER:

Thank you, Mr. President. If I have an emergency tonight, perhaps a heart attack, and I am rushed to a hospital in my plan, my insurance company would pay for me at a certain level. If I went to an out of network hospital, it could cost me $100,000 or $200,000 by the time I was stabilized and perhaps needed heart surgery. Currently, if the hospital is out of network, it is all my responsibility. I am not covered at all under my insurance. Under your proposed amendments to this bill, my insurance would pay to a negotiated rate equal to that of my insurance coverage at my in network hospital. Is that correct?

SENATOR COPENING:

Currently, in the situation you just described, you would be responsible for that $200,000. Under the bill, there is a rate schedule that has been put in place. In your situation, where you have gone to an out of network hospital and your insurance does not cover, the hospital would be forced to receive payment as set forth in this bill. The bill states 115 percent above the Division of Industrial Relations' (DIR) schedule. That is for workers' compensation. In the Assembly, the percentage has been increased to 200 percent. That is what is going to proposed by them. There is a good reason for this. When we crunched the numbers at 115 percent above workers' compensation, it still fell below the contracted rates the hospitals were receiving. We do not want that to happen. We want them to be able to make more. When you are dealing with contracts, you do not want to put them in a situation where you are going to have a physician or a hospital losing money, but we have to protect the patient. That is what would be worked out. The insurance company would be required to pay the 200 percent, with the new amendment, of DIR's medical schedule.

SENATOR SCHNEIDER:

With this, the hospital is guaranteed 200 percent of DIR's schedule. They are guaranteed that under this bill. If I was uninsured or I had some insurance and I was taken to the closest hospital in an emergency, there is no guarantee. Under federal and State law, they have to take care of me because I was in a trauma situation. If I have no money, then the hospital is responsible for the entire bill. It is my understanding this is all for workers in a non-profit plan. Those workers, many in Las Vegas working in the resort and service industry, do not have big incomes. If their insurance is not going to cover their emergency treatment, they are going to go bankrupt and the hospital will get nothing.

SENATOR COPENING:

I want to clarify that the current bill we are voting on is limited to 115 percent for non-trauma and to 120 percent. This is less than what we are going to come back with and propose later. This will go up, if accepted by the body. It will go up to 200 percent and 230 percent.

You are correct. But, if you are uninsured you are out of luck. This bill is dealing with people who have insurance but have gone to an out of network facility for an emergency or to an in-network hospital, but the doctor who treated you was not part of your plan and you still received the $100,000 bill.

I had an emergency during the last session. My insurance did not cover anything up here. I had to go to an Urgent Care and I had to pay the full bill. I paid the deductible at the time, and then received the bill for the balance. I was surprised by this and called my insurance company. I asked them why they did not cover the bill. They told me that this was not part of my plan. I asked if a person has an emergency outside of their plan, they are not covered? They said, no they are not covered.

This bill is limited. It deals with the non-profit insurance companies. It deals with only emergency care. It is specific. We are talking about a small population. These are the people who file for bankruptcy. We are trying to protect them.

SENATOR KIECKHEFER:

Thank you, Mr. President. If the Senator did have a heart attack and he was taken to the hospital here, there is a distinct likelihood that his insurance company would cover the emergency service.

My two older children were born in an emergency situation at an out of network hospital. My plan stated that in case of emergency we are covered. The problem we are addressing with this bill is that there is a particular self-insured plan in Las Vegas that does not want to cover their members in situations where they are taken by ambulance after an accident. They do not want to assume that risk. That is their problem. They are coming to us asking us to stabilize their expenses because they do not want to. I do not think that is proper.

SENATOR HORSFORD:

I rise in support of Senate Bill No. 115. As a former member of the Health and Human Services Committee last session, I have experience working on this measure. I was assigned to work on a subcommittee with Senator Washington and other members to try to reach an agreement. An interim study was conducted which included several of the recommendations now included in Senate Bill No. 115.

I want to frame this differently from my colleague from Washoe District No. 4. This is not between insurance companies and doctors alone. That is a factor in the overall provisions of the bill, but this is a consumer bill as it pertains to health care in the State of Nevada. I would like to give you an example.

One of my children was playing with a sucker and it lodged in the back of the throat. We thought my child was choking. We called 911, but did not have ample time to get them to our home, so my wife and I drove to the hospital with our child. We arrived at the closest hospital, whether in network or out of network, we did not know, because we wanted our child to be safe, to be able to breathe. I filled out the paper work. They asked for my insurance card. They did all the necessary paperwork every hospital does. I did not ask if they were in or out of network. I did not ask if the doctor was in or out of network. I wanted to be certain my child received the best health care at that moment. Fortunately, there was not an issue. We were able to leave the hospital that night. Some weeks later, however, I got bills in the mail. I had paid my co-pay in the hospital for the required amount by my insurance company, as a consumer. The bills were for out of network costs from physicians who helped to treat my child when we were in the emergency room. I did not know about any of these provisions and how they applied until that moment, in that situation.

I have health insurance, but as a consumer am I supposed to have to pay an additional amount of cost because we happened to be treated by an out of network doctor? I assumed my insurance covered that. I did not care which hospital or which doctor saw my child. I wanted the care. I paid the bill, but many of our constituents do not have the ability to pay a bill like that. They are placed in the same situations, whether for a heart attack, a broken bone, or for whatever emergency may befall them, and they cannot pay.

Over the course of the debate on this legislation, which dates back to at least 2005 when Senator Heck worked on the bill, this has been an ongoing issue. In my view, this is a consumer issue. This is a quality of health care issue for consumers.

To my colleagues who may object to the measure and some of the contracting provisions, I do not dispute some of their concerns. I feel the Chair of the Health and Human Services Committee and the members on that Committee have done everything they could to help balance this legislation by requiring adequacy of network. Some insurance companies do not have a very

good network of providers even though they contract out. Do we know that as consumers? We will if Senate Bill No. 115 is passed. It will be something that is required.

As the Chair of the Health and Human Services Committee indicated, there will be additional adjustments made in the Assembly. There is an agreement to increase the percentage based on the request from those in the hospital industry. That is fair. What I do not think is fair is to deny consumers legislation that protects them from medical bankruptcy. That is what is happening now. We have constituents who because of no fault of their own end up in a situation receiving bills totaling many thousands of dollars because they happen to be seen by the wrong doctor or be taken to the wrong facility. It is not wrong for the quality of care, but for insurance purposes. When those bills come due, and they are not paid, that cost is passed on to all of us in our premiums for insurance. That is why Senate Bill No. 115 deserves this body's support. I urge the members to approve this measure.

SENATOR ROBERSON:

Thank you, Mr. President. I would like to respond to comments made by my colleagues. My colleague from Washoe County indicated that this is about a self-insured program. I believe he is referring to the Culinary Union. I have a question for my colleague from Clark District No. 6. It sounds to me like the Union does not want to pay. They do not want to cover for out of network. Instead, they want the hospitals to take it in the shorts. To the Majority Leader, it does not sound like this is a consumer issue; this is a union issue.

SENATOR HORSFORD:

I will not debate my colleague from Clark District No. 5. It is time for us to stop pitting groups against groups and suggesting that measures before us are somehow implicating the members. This is a consumer issue that affects hundreds of thousands of people in the State of Nevada. This is not limited to any particular health plan. Some of the largest employers will be affected by Senate Bill No. 115 whether they are union or non-union. There are non-profit health plans, police, fire and school districts that will be affected by Senate Bill No. 115. I urge the members of this body whether you are new or whether you have been here a while, to put aside the ideological rhetoric and to focus on the measures of the bill. I just listed ten provisions why I support Senate Bill No. 115. I would urge the members to object on the merits of the bill and to not turn this into something that it is not.

Roll call on Senate Bill No. 115:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 115 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 227.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 867.

"SUMMARY—Revises provisions governing the financial administration of the Real Estate Division of the Department of Business and Industry. (BDR 54-982)"

"AN ACT relating to state financial administration; creating the Account for Real Estate Administration in the State General Fund; requiring money that is collected from the imposition of certain fees and charges to be deposited into the Account; requiring money in the Account to be used to defray certain costs and expenses of the Real Estate Division of the

Department of Business and Industry; **authorizing the Division to maintain a reserve in the Account under certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain fees, penalties and charges that are collected by the Real Estate Commission, the Commission of Appraisers of Real Estate, the Real Estate Administrator and the Real Estate Division of the Department of Business and Industry to be deposited into the State General Fund. (NRS 119.118, 645.140, 645C.240, 645D.140) Existing law also provides that certain money received by the Commission for Common-Interest Communities and Condominium Hotels, a hearing panel or the Division pursuant to certain laws concerning the regulation of community managers and certain personnel must be deposited in the Account for Common-Interest Communities and Condominium Hotels. (NRS 116A.220) **Section 1** of this bill creates the Account for Real Estate Administration in the State General Fund and requires the Administrator to administer the Account. **Sections 1-3, 7 and 9** of this bill require the Real Estate Commission, the Commission of Appraisers of Real Estate, the Administrator, the Commission for Common-Interest Communities and Condominium Hotels, a hearing panel and the Division to deposit money that is collected from the imposition of certain fees and charges into the Account and **sections 1-3** require money that is collected from the imposition of a fine or penalty be deposited into the State General Fund. **Sections 1-3, 7 and 9** also require the money in the Account to be used to defray certain costs and expenses of the Division until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out its duties. After the amount the Division is authorized to expend in a fiscal year has been deposited, all money received by the Division must be deposited into the State General Fund ~~[.]~~ **, except that the Division may maintain a reserve of not more than $500,000 which does not revert to the State General Fund and which the Division may use as authorized by the Legislature or the Interim Finance Committee.**

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

Section 1. NRS 645.140 is hereby amended to read as follows:

645.140 1. ***There is hereby created the Account for Real Estate Administration in the State General Fund. The Administrator shall administer the Account.***

2. All claims against the Account must be paid as other claims against the State are paid.

3. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

4. Except as otherwise provided in this section ~~[.]~~ ***and NRS 645.314, 645.6058 and 645.842,*** all ~~[fees, penalties and charges]~~ ***money*** received by

the Division pursuant to ~~[NRS 645.410, 645.660 and 645.830]~~ ***this chapter*** must be deposited with the State Treasurer for credit to the ~~[State General Fund.]~~ ***Account and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter*** ~~***[.]***~~ ***plus $500,000. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund*** ~~***[.]***~~ ***, except that the Division may maintain a reserve of not more than $500,000 in the Account which does not revert to the State General Fund and which may be used by the Division as authorized by the Legislature or the Interim Finance Committee.***

5. The Commission and the Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

6. The fees received by the Division ~~[:~~

~~(a) From the sale of publications, must be retained by the Division to pay the costs of printing and distributing publications.~~

~~(b) For]~~ ***for*** examinations ~~[,]~~ must be retained by the Division to pay the costs of the administration of examinations.

~~[➥]~~ Any surplus of the fees retained by the Division ***for the administration of examinations*** must be deposited with the State Treasurer for credit to the ~~[State General Fund.~~

~~2. Money for the support of the Division must be provided by direct legislative appropriation, and be paid out on claims as other claims against the State are paid.~~

~~3.]~~ ***Account.***

7. Each member of the Commission is entitled to receive:

(a) A salary of not more than $150 per day, as fixed by the Commission, while engaged in the business of the Commission; and

(b) A per diem allowance and travel expenses at a rate fixed by the Commission, while engaged in the business of the Commission. The rate must not exceed the rate provided for state officers and employees generally.

~~[4.]~~ ***8.*** While engaged in the business of the Commission, each employee of the Commission is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 2. NRS 645C.240 is hereby amended to read as follows:

645C.240 1. Except as otherwise provided in ~~[subsections 2 and 3,]~~ ***this section,*** all ~~[fees, penalties and other charges]~~ ***money*** received by the

Division pursuant to this chapter must be deposited with the State Treasurer for credit to the ~~[State General Fund.~~

~~2.]~~ ***Account for Real Estate Administration created by NRS 645.140 and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter ~~[.]~~ plus $500,000. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund ~~[.]~~ , except that the Division may maintain a reserve of not more than $500,000 in the Account which does not revert to the State General Fund and which may be used by the Division as authorized by the Legislature or the Interim Finance Committee.***

2. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

3. The Commission and the Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

4. Fees received by the Division ~~[:~~

~~(a) From the sale of publications, must be retained by the Division to pay the costs of printing and distributing publications.~~

~~(b) For]~~ ***for*** examinations ~~[,]~~ must be retained by the Division to pay the costs of the administration of examinations.

~~[→]~~ Any surplus of the fees retained by the Division ***for the administration of examinations*** must be deposited with the State Treasurer for credit to the ~~[State General Fund.~~

~~3.]~~ ***Account.***

5. The portion of the fees collected by the Division pursuant to NRS 645C.450 for the issuance or renewal of a certificate or license as a residential appraiser or the issuance or renewal of a certificate as a general appraiser which is used for payment of the registry fee to the ***Federal*** Financial Institutions Examination Council pursuant to 12 U.S.C. § 3338, must be retained by the Division for payment to the ***Federal*** Financial Institutions Examination Council.

~~[4. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.]~~

Sec. 3. NRS 645D.140 is hereby amended to read as follows:

645D.140 1. ~~[All fees, penalties and other charges]~~ ***Except as otherwise provided in this section, all money*** received by the Division

pursuant to this chapter must be deposited with the State Treasurer for credit to the ~~[State General Fund.~~

~~2. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.]~~ ***Account for Real Estate Administration created by NRS 645.140 and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter*** ~~.]~~ ***plus $500,000. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund*** ~~.]~~ ***, except that the Division may maintain a reserve of not more than $500,000 in the Account which does not revert to the State General Fund and which may be used by the Division as authorized by the Legislature or the Interim Finance Committee.***

2. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

3. The Administrator and Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Administrator or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

Sec. 4. NRS 116.620 is hereby amended to read as follows:

116.620 1. Except as otherwise provided in this section and within the limits of ~~[legislative appropriations,]~~ ***money available for this purpose,*** the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 116A.210 is hereby amended to read as follows:

116A.210 1. Except as otherwise provided in this section and within the limits of ~~[legislative appropriations,]~~ ***money available for this purpose,*** the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 7. NRS 116A.220 is hereby amended to read as follows:

116A.220 1. Except as otherwise provided in subsection ~~[2,]~~ ***3,*** all money received by the Commission, a hearing panel or the Division pursuant to this chapter must be deposited ~~[into the Account for Common-Interest Communities and Condominium Hotels created pursuant to NRS 116.630.]~~ ***with the State Treasurer for credit to the Account for Real Estate Administration created by NRS 645.140 and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter*** ~~[.]~~ ***plus $500,000. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund*** ~~[.]~~ ***, except that the Division may maintain a reserve of not more than $500,000 in the Account which does not revert to the State General Fund and which may be used by the Division as authorized by the Legislature or the Interim Finance Committee.***

2. ***The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.***

3. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

~~[3. Money for the support of the Commission and Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.]~~

Sec. 8. NRS 116B.810 is hereby amended to read as follows:

116B.810 1. Except as otherwise provided in this section and within the limits of ~~[legislative appropriations,]~~ ***money available for this purpose,*** the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 9. NRS 119.118 is hereby amended to read as follows:

119.118 ~~[All]~~

1. Except as otherwise provided in NRS 119.150, all fees and charges received by the Division ~~[shall]~~ ***must*** be deposited in the ~~[General Fund in the State Treasury. Funds for the support of the Division shall be provided by direct legislative appropriation, and shall be paid out on claims as other claims against the State are paid.]~~ ***Account for Real Estate Administration created by NRS 645.140 and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter*** ~~[.]~~ ***plus $500,000. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund*** ~~[.]~~ ***, except that the Division may maintain a reserve of not more than $500,000 in the Account which does not revert to the State General Fund and which may be used by the Division as authorized by the Legislature or the Interim Finance Committee.***

2. The money deposited into the Account must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

Sec. 10. NRS 645C.610 is hereby repealed.

Sec. 11. This act becomes effective upon passage and approval for the purpose of adopting any regulations that are necessary to carry out the provisions of this act and on ~~[October 1, 2011,]~~ **July 1, 2013,** for all other purposes.

TEXT OF REPEALED SECTION

645C.610 Disposition of money collected. If the Commission imposes a fine or a penalty or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

The amendment provides that all money received by the Real Estate Division must be deposited with the State Treasurer for credit to the Real Estate Administration account in the State General Fund, until the amount in the fiscal year reaches the amount authorized by

expenditure by the Division in that year plus $500,000 for reserve. Additionally the amendment provides that money collected in connection with the administration of the *Nevada Revised* Statutes (NRS) chapters addressing common interest communities and condominium hotels shall also be deposited into the account until the amount the Division has authorized to spend in a fiscal year has been deposited plus $500,000 for reserve. The amendment changes the effective date as well.

Amendment adopted.

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

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Assembly Bill No. 277, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 677 of the Senate be concurred in.

SHIRLEY BREEDEN	ELLIOT ANDERSON
MARK MANENDO	TERESA BENITEZ-THOMPSON
ELIZABETH HALSETH	JOHN HAMBRICK
Senate Conference Committee	*Assembly Conference Committee*

Senator Breeden moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 277.

Motion carried by a constitutional majority.

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 57.

The following Assembly amendment was read:

Amendment No. 735.

"SUMMARY— ~~[Expands the circumstances pursuant to which a court is authorized to issue]~~ **Establishes procedures for the Children's Advocate or his or her designee to obtain** certain warrants. (BDR ~~[11-289)"]~~ **38-289)**

"AN ACT relating to children; ~~[expanding the circumstances pursuant to which a court is authorized to issue]~~ **establishing procedures for the Children's Advocate or his or her designee to obtain, under certain circumstances,** a warrant to take physical custody of a **missing** child ~~[.]~~ **who was allegedly abducted;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law as set forth in the Uniform Child Custody Jurisdiction and Enforcement Act (chapter 125A of NRS) authorizes a court in a proceeding to enforce a child custody determination to issue a warrant to take physical custody of a child in an emergency situation if the court finds that the child is immediately likely to suffer serious physical harm or to be removed from this State. Before issuing the warrant, the court is required to hold a hearing at which the party alleging the need for the warrant is present but not the party who has physical custody of the child. (NRS 125A.525) The Uniform Child Custody Jurisdiction and Enforcement Act also authorizes a court in this State, to enforce a child custody determination issued by a court in another state, to issue an order to take physical custody of a child in a nonemergency

situation after holding a hearing at which both parties, the petitioner and the respondent, are given an opportunity to be heard. (NRS 125A.495)

Existing law as set forth in the Uniform Child Abduction Prevention Act (chapter 125D of NRS) authorizes a court, pursuant to a petition filed either before or after a child custody determination has been made, to issue a warrant to take physical custody of a child in an emergency situation if the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed. The court may issue the warrant without providing prior notice and an opportunity to be heard to the party who has physical custody of the child. (NRS 125D.200)

~~[Existing law also authorizes the court in divorce or other dissolution of marriage proceedings to enter an order allowing a party, under certain circumstances and with the assistance of a law enforcement agency, to obtain physical custody of a child from the party having physical custody of the child if the court finds that it would be in the best interest of the child to do so. (NRS 125.470) Section 1 of this bill deletes this provision regarding divorce and other dissolution of marriage proceedings, and section 2 of this bill sets forth a new procedure.~~

~~Section 2 expands the circumstances in which a court is authorized to issue a warrant to take physical custody of a child. Specifically, section 2 authorizes a court, upon a petition submitted during a proceeding to establish custody of a child or to enforce or modify a child custody determination, to issue a warrant to take physical custody of the child where there is probable cause to believe that the child has been abducted. If the court determines that the child has been abducted and that an emergency situation exists, including, without limitation, a situation in which the child is in imminent danger of being removed from this State or in imminent danger of serious physical harm, the court is authorized to issue a warrant. Before issuing the warrant in an emergency situation, the court must hold a hearing at which the party alleging the need for the warrant is present but not the party alleged to have committed the act of abduction. If the court determines that the situation is not an emergency situation, before issuing the warrant, the court must hold a hearing at which both parties, the party alleging the need for the warrant and the party alleged to have committed the act of abduction, are given an opportunity to be heard.]~~

Finally, existing law establishes the Office of Advocate for Missing or Exploited Children within the Office of the Attorney General and requires the Children's Advocate to carry out various duties relating to missing or exploited children in this State. (NRS 432.157) Section 2 of this bill authorizes the Children's Advocate or his or her designee, under certain circumstances, to apply to a court for a warrant to take physical custody of a missing child where there is probable cause to believe that the child has been abducted. Further, section 2 establishes the procedures for issuing such a warrant. Section 2 also defines the term "abduction" to include kidnapping, aiding and abetting kidnapping and the

willful detaining, concealing or removing of a child from a person having lawful custody or a right of visitation of the child by a person who has a limited right of custody to the child by operation of law or pursuant to a court order, judgment or decree or who has no right of custody to the child.

~~[Section 2 differs from the similar provisions of the Uniform Child Custody Jurisdiction and Enforcement Act and the Uniform Child Abduction Prevention Act in various ways, including, without limitation, with regard to the types of cases to which it applies. For example, section 2 applies to: (1) a broader category of emergency situations; (2) emergency situations which occur before a child custody determination has been made and in which the child is in imminent danger of serious physical harm; (3) nonemergency situations for child custody determinations that are issued by courts in this State; and (4) children who are willfully detained or concealed from persons having lawful custody or a right of visitation of the child, in addition to children who are removed from such persons.]~~

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

Section 1. ~~[NRS 125.470 is hereby amended to read as follows:~~

~~125.470 1. If, during any proceeding brought under this chapter, either before or after the entry of a final order concerning the custody of a minor child, it appears to the court that any minor child of either party has been, or is likely to be, taken or removed out of this State or concealed within this State, the court shall forthwith order such child to be produced before it and make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him or her the benefit of the final order or the modification or termination of the final order to be made in his or her behalf.~~

~~2. [If, during any proceeding brought under this chapter, either before or after the entry of a final order concerning the custody of a minor child, the court finds that it would be in the best interest of the minor child, the court may enter an order providing that a party may, with the assistance of the appropriate law enforcement agency, obtain physical custody of the child from the party having physical custody of the child. The order must provide that if the party obtains physical custody of the child, the child must be produced before the court as soon as practicable to allow the court to make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him or her the benefit of the final order or the modification or termination of the final order to be made in his or her behalf.~~

~~3. If the court enters an order pursuant to subsection 2 providing that a party may obtain physical custody of a child, the court shall order that party to give the party having physical custody of the child notice at least 24 hours before the time at which he or she intends to obtain physical custody of the child, unless the court deems that requiring the notice would likely defeat the purpose of the order.~~

~~4.] All orders for a party to appear with a child issued pursuant to this section may be enforced by issuing a warrant of arrest against that party to secure his or her appearance with the child.~~

~~[5.] 3. A proceeding under this section must be given priority on the court calendar.]~~ **(Deleted by amendment.)**

Sec. 2. Chapter ~~[125C]~~ **432** of NRS is hereby amended by adding thereto a new section to read as follows:

~~[~~ ~~*1. If, during any proceeding to establish custody of a child or enforce or modify a child custody determination, brought pursuant to this chapter or chapter 125 or 125A of NRS, it appears to the court upon a petition submitted by an aggrieved party or any other person having knowledge of the relevant facts]*~~

1. The Children's Advocate or his or her designee may apply to the court for a warrant to take physical custody of a missing child if, during an investigation of the missing child, it appears that there is probable cause to believe that : ~~[an]~~

(a) An act of abduction has been committed against the child ; and ~~[that the]~~

(b) The act of abduction was not committed ~~[without just cause, the court may issue a warrant to take physical custody of the child. A copy of a petition submitted pursuant to this subsection must be served upon the Children's Advocate appointed pursuant to NRS 432.157 before any hearing is held by the court pursuant to this section.]~~ to protect:

(1) The child from continued abuse or neglect or from a bona fide and imminent threat of abuse or neglect; or

(2) The person who allegedly abducted the child from continued domestic violence or a bona fide and imminent threat of domestic violence.

2. In filing the application for a warrant, the Children's Advocate and his or her designee acts on behalf of the court and not on behalf of any party.

3. The ~~[petition]~~ application must include, without limitation:

(a) ~~[An affidavit or other sworn declaration, signed by the petitioner under penalty of perjury, attesting to the truth and accuracy of the petition;~~

~~(b) A copy of the most recent child custody determination, if any, of the child;~~

~~(c)~~ The name of the person ~~[or persons]~~ having legal custody of the child;

(b) The name of the person alleged to have committed the act of abduction of the child;

(c) The name of the person alleged to have possession of the child, if different from the person described in paragraph (b);

(d) A statement of the facts and circumstances pertaining to the abduction of the child;

(e) A statement indicating whether, to the knowledge of the applicant after reasonable investigation under the circumstances, the child, the

person having legal custody of the child, the person alleged to have committed the act of abduction or ~~[the petitioner]~~ the person alleged to have possession of the child has been:

(1) The subject of an investigation of alleged abuse or neglect of a child or domestic violence;

(2) A party to a proceeding concerning the alleged abuse or neglect of a child, an act of abduction of a child or domestic violence; or

(3) A party against whom an order for protection against domestic violence was issued; ~~[and]~~

(f) A statement indicating ~~[whether any other]~~ which court , if any, has exercised jurisdiction over the custody or welfare of the child ~~[.]~~ ;

(g) A copy of the most recent child custody determination, if any, concerning the child, or if there is no such determination, a statement as to the legal basis for the custody of the child; and

(h) A declaration made under oath and penalty of perjury that every factual representation made in the application is true and correct to the best of the knowledge of the applicant.

~~[3.]~~ 4. The court may, in its discretion, supplement the allegations made in the ~~[petition]~~ application with the sworn testimony of the ~~[petitioner]~~ applicant at a hearing before the court. Any such testimony must be recorded and preserved in the records of the court.

~~[4.]~~ 5. If an application is filed pursuant to this section:

(a) The Children's Advocate or his or her designee may not be assessed a filing fee for the application; and

(b) Any proceedings regarding the application must be expedited by the court.

6. If the court determines that no exigent circumstances exist in relation to the issuance of the warrant, the court:

(a) Shall hold a hearing before it issues the warrant;

(b) Shall provide, or ensure that the Children's Advocate or his or her designee provides, notice of the hearing to the custodial parent, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child;

(c) If the person alleged to have committed the act of abduction or, if different, the person alleged to have possession of the child is present at the hearing or otherwise appears at the hearing, may:

(1) Order such person to return the child in accordance with the determination of the court regarding the placement of the child; and

(2) Issue the warrant in accordance with subsection 9; and

(d) If the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child received notice but are not present at the hearing, do not otherwise appear at the hearing and do not submit statements to the court, may issue the warrant in accordance with subsection 9.

7. If the court determines that exigent circumstances exist in relation to the issuance of the warrant, including, without limitation, that the child is in imminent danger of being removed from this State or in imminent danger of serious physical harm, the court may issue the warrant ~~[described in subsection 6]~~ after an ex parte hearing. If the court issues the warrant after an ex parte hearing : ~~[, the court:]~~

(a) ~~[Shall]~~ The court shall afford the ~~[party]~~ custodial parent, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child an opportunity to be heard at the earliest possible time after the warrant is executed, but not later than ~~[the next judicial day]~~ 48 hours after the warrant is executed unless a hearing ~~[on that date]~~ within that period is impossible. If a hearing ~~[on the next judicial day]~~ within that period is impossible, the court shall hold the hearing on the first judicial day possible.

(b) ~~[Shall provide, or cause the petitioner to provide,]~~ The Children's Advocate or his or her designee shall provide notice of the hearing to be held pursuant to paragraph (a) to the custodial parent, the ~~[party]~~ person alleged to have committed the act of abduction and ~~[all other interested parties.]~~ , if different, the person alleged to have possession of the child.

~~[5. If the court determines that no exigent circumstances exist in relation to the issuance of the warrant, the court:~~

~~(a) Shall hold a hearing before it issues the warrant described in subsection 6;~~

~~(b) Shall provide, or cause the petitioner to provide, notice of the hearing to all interested parties;~~

~~(c) If the party alleged to have committed the act of abduction is present at the hearing, may order the party to return the child in accordance with the placement of the child pursuant to subsection 7 and may issue the warrant described in subsection 6; and~~

~~(d) If the party alleged to have committed the act of abduction received notice but is not present at the hearing, may issue the warrant described in subsection 6.~~

~~6.]~~ 8. The custodial parent of the child, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child may:

(a) Appear at a hearing held pursuant to subsection 6 or 7 in person, by telephone or by video; and

(b) Submit written statements to the court electronically or by other means.

9. If, after a hearing held pursuant to subsection 6 or 7, as applicable, the court:

(a) Determines that there is probable cause to believe that an act of abduction has been committed against the child and that the act of abduction was not committed for the protection of the child or the person

who allegedly abducted the child as described in subsection 1, the court may issue a warrant to take physical custody of the child; or

(b) Finds by a preponderance of the evidence that the act of abduction of the child was committed for the protection of the child or the person who allegedly abducted the child as described in subsection 1, the court shall:

(1) Assume temporary emergency jurisdiction of the matter and shall enter a temporary emergency order for the custody of the child which is in the best interest of the child and which is sufficient to protect the safety and welfare of all interested persons; and

(2) Provide in the order a period of time which the court considers adequate and within which the person seeking the emergency order may obtain an initial or modified child custody determination regarding the child from a court that has jurisdiction to enter such an order.

10. A warrant issued by the court pursuant to this section:

(a) Must set forth findings of fact that establish probable cause for believing that an act of abduction occurred and that the act of abduction was [without just cause;] not committed for the protection of the child or the person who allegedly abducted the child as described in subsection 1;

(b) Must direct law enforcement officers to take physical custody of the child and deliver the child in accordance with the determination of the court regarding the placement of the child ; [pursuant to subsection 7;]

(c) Must specify the property that may be searched and the child [that] who may be seized pursuant to the warrant;

(d) [May] Must authorize law enforcement officers to enter private property as described in paragraph (c) to take physical custody of the child; [and]

(e) Must order that the child be returned to his or her legal custodian unless such placement is not in the best interest of the child; and

(f) Is enforceable throughout this State.

[7. Based on the statements in the petition and the testimony provided at any hearing held by the court, the court shall provide for the placement of the child pending final relief.

8.] 11. As soon as reasonably practicable but not later than 24 hours after [executing] a law enforcement officer executes a warrant issued pursuant to this section, the [law enforcement officer who or the law enforcement agency which executed the warrant] Children's Advocate or his or her designee shall inform the court of the execution of the warrant.

[9. After the hearing required by subsection 4 or 5 to afford all interested parties an opportunity to be heard, the court shall enter an order for temporary or permanent custody of the child.

10. If the court finds, after a hearing, that a petitioner sought a warrant pursuant to this section for the purpose of harassment or in bad faith, the court may:

(a) Award the other party reasonable attorney's fees, costs and expenses; and

~~*(b) Impose a civil penalty of not more than $1,000 on the petitioner.*~~

~~*11. The remedies available pursuant to this section are in addition to the remedies available pursuant to any other applicable provision of law, including, without limitation, NRS 125.470.]*~~

12. As used in this section:

(a) "Abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359.

(b) "Abuse or neglect of a child" has the meaning ascribed to it in NRS 432B.020.

(c) "Child custody determination" means a judgment, decree or other order of a court providing for the legal custody, physical custody or visitation with respect to a child. The term includes a permanent, temporary, initial and modification order.

(d) "Court" means a court of this state authorized to establish, enforce or modify a child custody determination.

(e) "Domestic violence" means the commission of any act described in NRS 33.018.

Sec. 2.5. **NRS 432.150 is hereby amended to read as follows:**

432.150 As used in NRS 432.150 to 432.220, inclusive, ***and section 2 of this act,*** unless the context otherwise requires:

1. "Clearinghouse" means the program established by the Attorney General pursuant to NRS 432.170.

2. "Director" means the Director of the Clearinghouse.

3. "Exploited child" means a person under the age of 18 years who has been:

(a) Used in the production of pornography in violation of the provisions of NRS 200.710;

(b) Subjected to sexual exploitation as defined in NRS 432B.110; or

(c) Employed or exhibited in any injurious, immoral or dangerous business or occupation in violation of the provisions of NRS 609.210.

4. "Missing child" means a person under the age of 18 years who has run away or is otherwise missing from the lawful care, custody and control of a parent or guardian.

Sec. 3. (Deleted by amendment.)

Sec. 4. This act becomes effective on July 1, 2011.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 57.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 348.

The following Assembly amendment was read:

Amendment No. 663.

"SUMMARY— ~~[Eliminates limits on the amounts of certain property that is exempt from execution.]~~ **Makes various changes concerning the execution on property of a judgment debtor or defendant.** (BDR 2-779)"

"AN ACT relating to property; **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; providing a procedure to execute on property held in a safe-deposit box;** eliminating limits on the amounts of certain property that is exempt from execution; **exempting certain property from execution; 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. 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.

Existing law exempts from execution all money, benefits, privileges or immunities arising out of a policy of life insurance if the annual premium paid for the policy does not exceed $15,000 and exempts a portion of those insurance proceeds if the premium does exceed $15,000. (NRS 21.090) **Section** ~~[1]~~ *7* of this bill eliminates the $15,000 premium limit, allowing for a complete exemption from the execution of all money, benefits, privileges or immunities arising from a policy of life insurance. **Section 7 also 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.

Existing law exempts from execution any annuity benefits presently due and payable to an annuitant on a scheduled or periodic basis up to a total of $350 per month but allows a court to order certain just and proper payments from annuity benefits if those benefits exceed $350 per month. (NRS 687B.290) **Section ~~12~~ 15** of this bill eliminates the $350 monthly benefit exemption limit, allowing for a complete exemption from the execution of annuity benefits.

Section 16 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 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor.

3. If a judgment debtor has more than one personal bank account with the financial institution 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 financial institution 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. 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*** 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 ~~[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.

~~[Section 1.]~~ ***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 ~~[,]~~ ***pursuant to this section,*** the judgment debtor must, within ~~[8]~~ ***20 calendar*** 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]~~ ***or garnishment*** the judgment debtor's claim of exemption ~~[.]~~ ***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 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 a 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 ~~[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*** 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 which .....is 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 which .....is 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 or the

entire amount in the account, whichever is less, is not subject to garnishment. 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 necessaries 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. 2.]~~ ***Sec. 15.*** NRS 687B.290 is hereby amended to read as follows:

687B.290 1. The benefits, rights, privileges and options which under any annuity contract issued prior to or after January 1, 1972, are due or prospectively due the annuitant shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the contract, except ~~[:~~

~~(a) As~~ ***as*** to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payment to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable

the insurer to ascertain the annuity contract, the annuitant and the payment sought to be avoided on the ground of fraud.

~~[(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he or she is an annuitant shall not at any time exceed $350 per month for the length of time represented by such installments, and such periodic payments in excess of $350 per month shall be subject to garnishee execution to the same extent as are wages and salaries.~~

~~(c) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he or she is an annuitant, at any time exceed payment at the rate of $350 per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and the family of the judgment debtor, if dependent upon the judgment debtor, as well as any payments required to be made by the annuitant to other creditors under prior court orders.]~~

2. If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable or subject to commutation, and ~~[if the benefits are payable periodically or at stated times,]~~ the same exemptions and exceptions contained in this section for the annuitant shall apply with respect to such beneficiary or assignee.

Sec. 16. **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 Wiener moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 348.

Motion carried.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that Assembly Bill No. 572 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 313.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 954.

"SUMMARY—Revises certain provisions relating to energy. (BDR 58-236)"

"AN ACT relating to energy; requiring the Nevada Energy Commissioner to prescribe minimum standards of energy efficiency for certain electrical devices; authorizing the Commissioner to charge and collect a fee from manufacturers of certain electrical devices for the costs of any tests to confirm that such electrical devices comply with the minimum standards of energy efficiency prescribed by the Commissioner; authorizing the Commissioner to impose administrative fines; requiring the Public Utilities Commission of Nevada, in evaluating a 3-year plan submitted by an electric utility, to ~~[give preference to]~~ **consider** certain measures and sources of electricity; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Nevada Energy Commissioner to prepare a comprehensive state energy plan which includes the promotion of the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy. (NRS 701.190) Existing law also requires the Commissioner to adopt regulations for the conservation of energy in buildings and to adopt regulations establishing a minimum standard of energy efficiency for general purposes lights. (NRS 701.220, 701.260) **Section 1** of this bill requires the Commissioner to adopt regulations prescribing a minimum standard of energy efficiency for portable light fixtures and televisions and authorizes the Commissioner to prescribe a minimum standard of energy efficiency for any other electrical devices. In addition, **section 1** requires the Commissioner to adopt regulations establishing the procedures by which a manufacturer of an electrical device is required to: (1) demonstrate that the electrical device complies with the minimum standard of energy efficiency; (2) identify that the device complies with the minimum standard of energy efficiency; and (3) make available to the Commissioner samples of the device for the purpose of conducting tests to confirm that the device complies with the minimum standard of energy

efficiency. **Section 1** authorizes the Commissioner to charge and collect a fee from the manufacturer of an electrical device for the cost of conducting tests to confirm that the device complies with the minimum standard of energy efficiency. **Section 1** also authorizes the Commissioner to impose an administrative fine on any manufacturer of an electrical device who does not comply with **section 1** or the regulations adopted pursuant thereto. Finally, **section 1** requires the Commissioner to make available to the public information concerning the minimum standards of energy efficiency prescribed by the Commissioner. **Section 5** of this bill requires the Commissioner to adopt the regulations prescribing the minimum standards of energy efficiency on or before October 1, 2012.

~~[Section 3 of this bill requires, rather than authorizes, the Commission,]~~ **Existing law authorizes the Public Utilities Commission of Nevada to give preference to certain energy efficiency measures and sources of energy** in evaluating the adequacy of a 3-year plan submitted by an electric utility **.** ~~[, to give preference to those]~~ **(NRS 704.746) Section 3 of this bill requires the Commission, in evaluating such a plan, to consider all reasonable** energy efficiency measures, purchasing decisions and sources of energy identified in the plan which provide the greatest economic and environmental benefits to the State and which provide levels of service that are adequate and reliable.

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 7, the Commissioner:

(a) Shall adopt regulations prescribing a minimum standard of energy efficiency for:

(1) Portable light fixtures; and

(2) Televisions.

(b) May adopt regulations prescribing a minimum standard of energy efficiency for any electrical device other than the electrical devices set forth in paragraph (a).

2. In adopting regulations pursuant to subsection 1, the Commissioner shall prescribe the minimum standard of energy efficiency for an electrical device based upon a determination that the standard of energy efficiency will serve to promote energy conservation in this State and will be cost-effective for consumers who purchase and use such electrical devices.

3. A regulation adopted pursuant to subsection 1 which establishes or amends a minimum standard of energy efficiency for an electrical device must not become effective until 1 year after the date on which the regulation is adopted.

4. The Commissioner shall adopt regulations establishing the procedures by which a manufacturer of an electrical device for which the

Commissioner has prescribed a minimum standard of energy efficiency pursuant to subsection 1 shall:

(a) Demonstrate that the electrical device complies with the minimum standard of energy efficiency prescribed by the Commissioner;

(b) Identify conspicuously on the electrical device and on any packaging for the electrical device that the device complies with the minimum standard of energy efficiency prescribed by the Commissioner; and

(c) Make available to the Commissioner samples of the electrical device for the purpose of conducting tests to confirm that the device complies with the minimum standard of energy efficiency prescribed by the Commissioner.

5. The Commissioner may:

(a) Charge and collect a fee from the manufacturer of an electrical device for the cost of any test conducted by the Commissioner in accordance with the regulations adopted pursuant to paragraph (c) of subsection 4; and

(b) Impose an administrative fine on any manufacturer of an electrical device who does not comply with the provisions of this section or any regulation adopted pursuant thereto.

6. The Commissioner shall make available to the public, free of charge, information concerning the minimum standards of energy efficiency for electrical devices prescribed by the Commissioner pursuant to this section and shall publish the information on the Internet website of the Commissioner.

7. The regulations adopted pursuant to this section do not apply to:

(a) New electrical devices manufactured in this State and sold outside of this State;

(b) New electrical devices manufactured outside of this State and sold at wholesale in this State for final retail sale and use outside of this State; or

(c) New electrical devices designed expressly for installation and use in a recreational vehicle as that term is defined in NRS 482.101.

8. As used in this section, "portable light fixture" means a movable electric light fixture that uses a plug-in power cord.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 704.746 is hereby amended to read as follows:

704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. The Commission shall determine the parties to the public hearing on the adequacy of the plan. A person or governmental entity may petition the Commission for leave to intervene as a party. The Commission must grant a petition to intervene as a party in the hearing if the person or entity has relevant material evidence to provide concerning the adequacy of the plan. The Commission may limit participation of an intervener in the hearing to avoid duplication and may prohibit continued participation in the hearing by an intervener if the Commission determines that continued participation will

unduly broaden the issues, will not provide additional relevant material evidence or is not necessary to further the public interest.

3. In addition to any party to the hearing, any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

4. After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers of the utility, associated with the following possible measures and sources of supply:

(1) Improvements in energy efficiency;

(2) Pooling of power;

(3) Purchases of power from neighboring states or countries;

(4) Facilities that operate on solar or geothermal energy or wind;

(5) Facilities that operate on the principle of cogeneration or hydrogeneration;

(6) Other generation facilities; and

(7) Other transmission facilities.

5. The Commission ~~[may]~~ ***shall*** ~~[give preference to the]~~ ***consider all practicable*** measures and sources of supply set forth in paragraph (c) of subsection 4 that:

(a) Provide the greatest economic and environmental benefits to the State;

(b) Are consistent with the provisions of this section; and

(c) Provide levels of service that are adequate and reliable.

6. The Commission shall:

(a) Adopt regulations which determine the level of preference to be given to ~~[those]~~ ***any*** measures ~~[and]~~ ***or*** sources of supply ~~[.]~~ ***considered by the Commission pursuant to subsection 5;*** and

(b) Consider the value to the public of using water efficiently when ~~[it is]~~ determining ~~[those preferences.]~~ ***the preference to be given to any measures or sources of supply considered by the Commission pursuant to subsection 5.***

7. The Commission shall:

(a) Consider the level of financial commitment from developers of renewable energy projects in each renewable energy zone, as designated pursuant to subsection 2 of NRS 704.741; and

(b) Adopt regulations establishing a process for considering such commitments , including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

Sec. 4. (Deleted by amendment.)

Sec. 5. The Nevada Energy Commissioner shall adopt the regulations required by section 1 of this act on or before October 1, 2012.

Sec. 6. 1. This section and sections 1 and 5 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

2. Sections 2, 3 and 4 of this act become effective on January 1, 2012.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 954 requires the Public Utilities Commission of Nevada (PUCN) to consider all practical measures and sources of supply in a utility's triennial integrated resource plan. PUCN shall adopt regulations which determine the level of preference to give any measures or resources considered by the PUCN in connection with the triennial plan.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Leslie moved that Assembly Bill No. 493 be placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 341.

Bill read third time.

Roll call on Senate Bill No. 341:

YEAS—10.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, Lee, McGinness, Rhoads, Roberson, Settelmeyer—11.

Senate Bill No. 341 having failed to receive a constitutional majority, Mr. President declared it lost.

Senate Bill No. 347.

Bill read third time.

Roll call on Senate Bill No. 347:

YEAS—21.

NAYS—None.

Senate Bill No. 347 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 370.

Bill read third time.

Roll call on Senate Bill No. 370:

YEAS—21.

NAYS—None.

Senate Bill No. 370 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 425.

Bill read third time.

Roll call on Senate Bill No. 425:

YEAS—21.

NAYS—None.

Senate Bill No. 425 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 485.

Bill read third time.

Roll call on Senate Bill No. 485:

YEAS—21.

NAYS—None.

Senate Bill No. 485 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 486.

Bill read third time.

Roll call on Senate Bill No. 486:

YEAS—20.

NAYS—Gustavson.

Senate Bill No. 486 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that for the remainder of this Legislative Session all bills and resolutions that have been passed or adopted be immediately transmitted to the Assembly, time permitting.

Motion carried.

Senator Horsford moved that Senate Bills Nos. 197, 360, 371, 427, 428, 473, be placed at the top of the General File.

Motion carried.

Senator Horsford moved that Assembly Bills Nos. 579, 580 be placed on General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 197.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 942.

"SUMMARY—Revises provisions governing the system of governance and oversight of public education. (BDR 34-94)"

"AN ACT relating to education; ~~[creating the Nevada Commission on K-12 Public Education and prescribing the membership, duties and powers of the Commission; repealing the]~~ **removing provisions creating a 10-member elected** State Board of Education**;** ~~[and providing for the election and appointment of Commissioners of the Nevada Commission on K-12 Public Education;]~~ **providing for the election and appointment of members to the State Board;** revising the qualifications and duties of the Superintendent of Public Instruction; revising the components of the statewide plan to improve the academic achievement of pupils; ~~[repealing the Commission on Educational Excellence, the Commission on Educational Technology and the Council to Establish Academic Standards for Public Schools and transferring certain duties of those Commissions and the Council; revising the membership and duties of the Commission on Professional Standards in Education; repealing the Statewide Council for the Coordination of the Regional Training Programs and transferring certain duties of the Council to the Superintendent of Public Instruction; revising provisions governing the budgets of the]~~ **revising provisions governing the** regional training programs for the professional development of teachers and administrators; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Department of Education which consists of the State Board of Education, the State Board for Career and Technical Education and the Superintendent of Public Instruction. (NRS 385.010) ~~[Commencing on January 1, 2013, sections 4-7 of this bill change the name of the State Board of Education to the Nevada Commission on K-12 Public Education which is composed of Commissioners of Education.]~~ **Sections 6 and 55** of this bill remove the provisions creating the 10-member elected State Board **of Education** and provides for the election and appointment of ~~[Commissioners to the Nevada Commission on K-12 Public Education,]~~ **members** whose terms will commence on January ~~[1,]~~ **8,** 2013.

Existing law creates the Commission on Educational Excellence, **the Advisory Council on Parental Involvement,** the Commission on Educational Technology**,** ~~[and]~~ the Council to Establish Academic Standards for Public Schools**.** ~~[. Sections 54 and 56 of this bill repeal these Commissions and the Council effective July 1, 2011. Sections 2, 15-19, 24-26, 28 and 30-35 of this bill transfer certain duties and responsibilities formerly assigned to those entities to the Department and the State Board. Sections 3, 21 and 27 of this bill authorize the Department to appoint advisory committees to assist the Department with those newly transferred duties and responsibilities.]~~ **, the Commission on Professional Standards in Education, the regional training programs for the professional**

development of teachers and administrators and the Statewide Council for the Coordination of the Regional Training Programs. (NRS 385.3784, 385.610, 388.790, 389.510, 391.011, 391.512, 391.516) Sections 3.3, 3.5, 20, 27.5, 38.3 and 38.5 of this bill provide that the Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of those commissions, councils and programs are carried out by the commissions, councils and programs successfully.

Under existing law, the Superintendent of Public Instruction is appointed by the State Board to a term of 3 years. (NRS 385.150) Section 8.5 of this bill provides for the appointment of the Superintendent by the Governor from a list of candidates submitted by the State Board. Section 8.5 further provides that the Superintendent serves at the pleasure of the Governor and is in the Executive Department of State Government.

Sections 9-11 of this bill revise the qualifications and duties of the Superintendent of Public Instruction to: (1) require the Superintendent to possess the knowledge and ability to carry out the duties of the position; (2) provide that the Superintendent is the educational leader for the system of K-12 public education in this State; (3) require the Superintendent to enforce the observations of statutes and regulations governing K-12 public education; and (4) request a plan of corrective action if the Superintendent determines that a school district or charter school has not complied with those statutes and regulations.

Section 12 of this bill revises the plan to improve the academic achievement of pupils enrolled in public schools, to require the State Board, in developing the plan, to establish clearly defined goals and benchmarks for improving the achievement of pupils and prescribes those goals and benchmarks.

~~[Existing law establishes the Commission on Professional Standards in Education. (NRS 391.011) Sections 39 and 57 of this bill revise the membership of the Commission, whose new terms will commence on January 1, 2012.]~~ **Section 37** of this bill requires the Commission **on Professional Standards in Education** to submit an annual report to the State Board and the Legislative Committee on Education describing the status of the regulations adopted by the Commission and a work plan designating the proposed activities of the Commission during the next year.

Existing law creates three regional training programs for the professional development of teachers and administrators ~~[, the Statewide Council for the Coordination of the Regional Training Programs and a governing body of each regional training program. (NRS 391.500-391.556) Sections 45 and 54 of this bill remove the provisions creating the Statewide Council and transfers certain duties and responsibilities to the Superintendent of Public Instruction. Sections 38 and 47 of this bill revise the manner in which the budgets of the regional training programs are submitted, approved and revised to require the governing body of a regional training program to~~

~~submit a proposed budget for the program to the Superintendent of Public Instruction for inclusion in the biennial budget of the Department.]~~ **and designates each of the 17 county school districts within the jurisdiction of one of the regional training programs. (NRS 391.512) Section 47.5 of this bill removes the Churchill County School District from the jurisdiction of the Northeastern Nevada Regional Training Program, for which the Elko County School District serves as the fiscal agent, and places that School District within the jurisdiction of the Northwestern Nevada Regional Training Program, for which the Washoe County School District serves as the fiscal agent. Section 58.7 of this bill requires the Elko County School District to transfer from the Northeastern Nevada Regional Training Program to the Washoe County School District for the Northwestern Nevada Regional Training Program an appropriate sum of money to reflect the addition of the Churchill County School District to the Northwestern Nevada Regional Training Program. Section 38.7 of this bill requires the governing body of each regional training program for the professional development of teachers and administrators to establish an evaluation system for the teachers and other licensed educational personnel who participate in the program and prescribes the requirements of that evaluation system.**

Section 23 of Assembly Bill No. 579 of this session provides for the funding of the regional training programs through the three school districts that serve as fiscal agents for the regional training programs. Section 53.5 of this bill repeals section 23 of Assembly Bill No. 579. Section 54.5 of this bill instead requires the Department of Education to transfer those sums to: (1) the three school districts that serve as fiscal agents for the regional training programs for the continued provision of professional development through their respective regional training programs; and (2) the Clark County School District and the Washoe County School District for the purchase of professional development for the teachers and administrators employed by those School Districts, which may include the purchase of professional development through the regional training program. Section 54.5 also requires the Clark County School District and the Washoe County School District to provide written notice to the regional training program on or before August 1, 2011, for the 2011-2012 Fiscal Year, and March 1, 2012, for the 2012-2013 Fiscal Year if the School District will purchase professional development through the regional training program.

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2 and 3]~~ **3.3 and 3.5** of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 3.3. ***The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Commission set forth in NRS 385.3781 to 385.379, inclusive, are carried out by the Commission successfully.***

Sec. 3.5. ***The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Advisory Council set forth in NRS 385.600, 385.610 and 385.620 are carried out by the Advisory Council successfully.***

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

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

Sec. 6. NRS 385.021 is hereby amended to read as follows:

385.021 1. The State Board ~~[Nevada Commission on K-12 Public Education]~~ ***is hereby created. The*** ~~[Nevada Commission on K-12 Public Education]~~ ***State Board*** consists of ~~[10 members]~~ ***the following voting*** ~~[Commissioners:]~~ ***members:***

(a) One ~~[Commissioner]~~ ***member*** elected by the registered voters ~~[within the districts]~~ ***of each congressional district*** described in NRS ~~[385.0225 to 385.0265,]~~ ***304.060 to 304.120,*** inclusive ~~[.~~

~~2.]~~ ***;***

(b) One ~~[Commissioner]~~ ***member appointed by the Governor;***

(c) One ~~[Commissioner]~~ ***member appointed by the Governor, nominated by the Majority Leader of the Senate; and***

(d) One ~~[Commissioner]~~ ***member appointed by the Governor, nominated by the Speaker of the Assembly.***

2. In addition to the voting ~~[Commissioners]~~ ***members described in subsection 1, the*** ~~[Nevada Commission on K-12 Public Education]~~ ***State Board consists of the following four nonvoting*** ~~[Commissioners:]~~ ***members:***

(a) One ~~[Commissioner]~~ ***member appointed by the Governor who is a member of a board of trustees of a school district*** ~~[appointed]~~ ***, nominated by the Nevada Association of School Boards;***

(b) One ~~[Commissioner]~~ ***member appointed by the Governor who is the superintendent of schools of a school district*** ~~[appointed]~~ ***, nominated by the Nevada Association of School Superintendents;***

(c) One ~~[Commissioner]~~ ***member appointed by the Governor who represents the Nevada System of Higher Education*** ~~[appointed]~~ ***, nominated by the Board of Regents of the University of Nevada; and***

(d) One ~~[Commissioner]~~ ***member appointed by the Governor who is a pupil enrolled in a public school in this State*** ~~[appointed]~~ ***, nominated by the Nevada Association of Student Councils or its successor organization*** ~~[. In making the appointments, the Nevada Association of Student Councils or its successor organization shall solicit recommendations from its members, the members of]~~ ***and in consultation with the Nevada Youth Legislature*** ~~[and the members of any other statewide youth organizations that wish to submit recommendations.]~~ ***. After the initial term, the term of the member***

appointed pursuant to this paragraph commences on June 1 and expires on May 31 of the following year.

3. Each **member of the State Board** ~~*[Commissioner]*~~ ***elected pursuant to paragraph (a) of subsection 1*** must be a ~~[resident]~~ ***qualified elector*** of the district from which that **member** ~~*[Commissioner]*~~ is elected**.** ~~[~~.

~~3. At the general election in 2002, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 2, 5, 6 and 10.]~~

4. ~~[At the general election in 2004, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 1, 3, 4, 7, 8 and 9.]~~ ***Each*** ~~*[Commissioner]*~~ ***member appointed pursuant to paragraphs (b), (c) and (d) of subsection 1 and each*** ~~*[Commissioner]*~~ ***member appointed pursuant to subsection 2 must be a resident of this State.***

5. ***The*** ~~*[appointing authorities]*~~ ***Governor shall ensure that the*** ~~*[Commissioners]*~~ ***members appointed pursuant to paragraphs (b), (c) and (d) of subsection 1 represent the geographic diversity of this State and that:***

(a) One ~~*[Commissioner]*~~ ***member is a teacher at a public school*** ~~*[.]*~~ ***selected from a list of three candidates provided by the Nevada State Education Association.***

(b) One ~~*[Commissioner]*~~ ***member is the parent or legal guardian of a pupil enrolled in a public school.***

(c) One ~~*[Commissioner]*~~ ***member is a person active in a private business or industry of this State.***

6. After the initial terms, each ~~*[Commissioner:]*~~ ***member:***

(a) Elected pursuant to paragraph (a) of subsection 1 serves a term of 4 years. ~~*[Such Commissioner]*~~ ***A member may be elected to serve not more than three terms but may be appointed to serve pursuant to paragraph (b), (c) or (d) of subsection 1 or subsection 2 after service as an elected*** ~~*[Commissioner,]*~~ ***member, notwithstanding the number of terms the*** ~~*[Commissioner]*~~ ***member served as an elected*** ~~*[Commissioner.]*~~ ***member.***

(b) Appointed pursuant to paragraphs (b), (c) and (d) of subsection 1 serves a term of 2 years. ~~*[Commissioners]*~~ ***A member may be reappointed for additional terms of 2 years in the same manner as the original appointments.***

(c) Appointed pursuant to subsection 2 serves a term of 1 year. ~~*[Commissioners]*~~ ***A member may be reappointed for additional terms of 1 year in the same manner as the original appointments.***

7. If a vacancy occurs ~~[on the State Board,]~~ ***during the term of:***

(a) A ~~*[Commissioner]*~~ ***member who was elected pursuant to paragraph (a) of subsection 1,*** the Governor shall appoint a **member** ~~*[Commissioner]*~~ to fill the vacancy until the next general election, at which election a **member** ~~*[Commissioner]*~~ must be chosen for the balance of the unexpired term. The appointee must be a ~~[resident]~~ ***qualified elector*** of the district where the vacancy occurs.

~~[6. No member of the State Board may be elected to the office more than three times.]~~

(b) A voting ~~[Commissioner]~~ member appointed pursuant to paragraph (b), (c) or (d) of subsection 1 or a nonvoting ~~[Commissioner]~~ member appointed pursuant to subsection 2, the vacancy must be filled in the same manner as the original appointment for the remainder of the unexpired term.

Sec. 7. NRS 385.040 is hereby amended to read as follows:

385.040 1. The **State Board** ~~[of Education may]~~ ~~[Nevada Commission on K-12 Public Education]~~ *shall* hold at least ~~[four]~~ ***9 but not more than 12*** regular meetings annually at the state capital. The Secretary shall call all regular meetings.

2. ***At least one of the meetings of the ~~[Nevada Commission on K-12 Public Education]~~ State Board must include a discussion with the superintendents of the school districts, presidents of the boards of trustees of the school districts, representatives of the governing bodies of charter schools, representatives of the governing bodies of university schools for profoundly gifted pupils and the chairs of all boards, commissions and councils in the public education system in this State to discuss:***

(a) The goals and benchmarks of the State for improving the academic achievement of pupils enrolled in public schools;

(b) The effects of those goals and benchmarks on the school districts and public schools;

(c) The status of the school districts and public schools in achieving the goals and benchmarks; and

(d) The status of any corrective actions imposed on a school district or public school.

3. The ***State*** **Board** ~~*[Nevada Commission on K-12 Public Education]*~~ may hold special meetings at such other times and places as the ***State*** **Board** ~~*[Commission]*~~ may direct. The Secretary shall call special meetings upon the written request of the President or any three ***voting*** **members** ~~*[voting Commissioners.]*~~ **of the *State* Board.**

~~[3.]~~ ***4.*** A majority of the ~~[Board]~~ ***voting ~~[Commissioners]~~ members of the ~~[Nevada Commission on K-12 Public Education]~~ State Board*** constitutes a quorum for the transaction of business, and no action of the ***State*** **Board** ~~*[Commission]*~~ is valid unless that action receives, at a legally called meeting, the approval of a majority of all ~~[board]~~ ***voting*** **members.** ~~*[voting Commissioners.]*~~

Sec. 8. (Deleted by amendment.)

Sec. 8.5. **NRS 385.150 is hereby amended to read as follows:**

385.150 ~~[1. The State Board shall appoint the]~~ ***The*** Superintendent of Public Instruction ~~[for a term of 3 years. The State Board may remove the Superintendent of Public Instruction from office for inefficiency, neglect of duty, malfeasance in office or for other just cause.]~~ ***:***

1. Is appointed by the Governor from a list of three candidates submitted by the State Board and serves at the pleasure of the Governor.

2. ~~[A vacancy must be filled by the State Board for the remainder of the unexpired term.~~

~~3. The Superintendent of Public Instruction is]~~ ***Is*** in the unclassified service of the State.

3. Is in the Executive Department of State Government.

Sec. 9. NRS 385.160 is hereby amended to read as follows:

385.160 To be eligible to the Office of Superintendent of Public Instruction, a person shall:

1. Have attained the age of 21 years at the time of his or her appointment; ~~[and]~~

2. Hold a master's degree in the field of education or school administration ~~[.]~~ ***; and***

3. Possess the knowledge and ability to carry out the duties required by this title and all other statutes and regulations governing K-12 public education.

Sec. 10. NRS 385.175 is hereby amended to read as follows:

385.175 The Superintendent of Public Instruction ~~[shall:]~~ ***is the educational leader for the system of K-12 public education in this State. The Superintendent of Public Instruction shall:***

1. Execute, direct or supervise all administrative, technical and procedural activities of the Department in accordance with policies prescribed by the State Board.

2. Employ personnel for the positions approved by the State Board and necessary for the efficient operation of the Department.

3. Organize the Department in a manner which will assure efficient operation and service.

4. Maintain liaison and coordinate activities with other state agencies performing educational functions.

5. ***Enforce the observance of this title and all other statutes and regulations governing K-12 public education.***

6. Request a plan of corrective action from the board of trustees of a school district or the governing body of a charter school if the Superintendent of Public Instruction determines that the school district or charter school has not complied with a requirement of this title or any other statute or regulation governing K-12 public education. The plan of corrective action must provide a timeline approved by the Superintendent of Public Instruction for compliance with the statute or regulation.

7. Perform such other duties as are prescribed by law.

Sec. 11. NRS 385.230 is hereby amended to read as follows:

385.230 1. The Superintendent of Public Instruction shall ***, in conjunction with the State Board, prepare an annual*** report ~~[to]~~ ***of*** the ~~[Governor biennially, on or before December 1, in the year immediately preceding a regular session of the Legislature concerning matters relating to~~

~~education in this state, including,~~] ***state of public education in this State. The report must include,*** without limitation ~~[, an]~~ ***:***

(a) An analysis of each annual report of accountability prepared by the State Board pursuant to NRS 385.3469 ~~[in the immediately preceding 2 years.~~

~~2. The Superintendent of Public Instruction shall report to the Legislature during each regular session of the Legislature concerning matters relating to education in this state, including, without limitation, an analysis of each annual report of accountability prepared by the State Board pursuant to NRS 385.3469 in the immediately preceding 2 years.~~] ***;***

(b) An update on the status of K-12 public education in this State;

(c) A description of the most recent vision and mission statements of the State Board and the Department, including, without limitation, the progress made by the State Board and Department in achieving those visions and missions;

(d) A description of the goals and benchmarks for improving the academic achievement of pupils which are included in the plan to improve the achievement of pupils required by NRS 385.34691;

(e) An analysis of the progress the public schools have made in the previous year toward achieving the goals and benchmarks for improving the academic achievement of pupils;

(f) An analysis of whether the standards and examinations adopted by the State Board adequately prepare pupils for success in postsecondary educational institutions and in career and workforce readiness;

(g) An analysis of the extent to which school districts and charter schools recruit and retain effective teachers and principals;

(h) An analysis of the ability of the automated system of accountability information for Nevada established pursuant to NRS 386.650 to link the achievement of pupils to the performance of the individual teachers assigned to those pupils and to the principals of the schools in which the pupils are enrolled;

(i) An analysis of the extent to which the lowest performing public schools have improved the academic achievement of pupils enrolled in those schools;

(j) A summary of the innovative educational programs implemented by public schools which have demonstrated the ability to improve the academic achievement of pupils, including, without limitation:

(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; and

(k) A description of any plan of corrective action requested by the Superintendent of Public Instruction from the board of trustees of a school district or the governing body of a charter school and the status of that plan.

2. In odd-numbered years, the Superintendent of Public Instruction shall present the report in person to the Governor and each standing committee of the Legislature with primary jurisdiction over matters relating to K-12 public education at the beginning of each regular session of the Legislature.

3. In even-numbered years, the Superintendent of Public Instruction shall, on or before January 31, submit a written copy of the report to the Governor and to the Legislative Committee on Education.

Sec. 12. NRS 385.34691 is hereby amended to read as follows:

385.34691 1. The State Board shall prepare a plan to improve the achievement of pupils enrolled in the public schools in this State. The plan:

(a) Must be prepared in consultation with:

(1) Employees of the Department;

(2) At least one employee of a school district in a county whose population is 100,000 or more, appointed by the Nevada Association of School Boards;

(3) At least one employee of a school district in a county whose population is less than 100,000, appointed by the Nevada Association of School Boards; and

(4) **At least one representative of the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516, appointed by the Council;** ~~*[Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;]*~~ and

(b) May be prepared in consultation with:

(1) Representatives of institutions of higher education;

(2) Representatives of regional educational laboratories;

(3) Representatives of outside consultant groups;

(4) **Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;**

(5) The Bureau; and

(6) ~~*[(5)]*~~ Other persons who the State Board determines are appropriate.

2. A plan to improve the achievement of pupils enrolled in public schools in this State must include:

(a) A review and analysis of the data upon which the report required pursuant to NRS 385.3469 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors common among the school districts or charter schools in this State, as revealed by the review and analysis.

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

(d) Strategies to improve the academic achievement of pupils enrolled in public schools in this State, including, without limitation, strategies to:

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

(I) The curriculum appropriate to improve achievement;

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

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

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

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

(4) Manage effectively the discipline of pupils; and

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

(e) Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(1) The requirements for admission to an institution of higher education and the opportunities for financial aid;

(2) The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.938, inclusive; and

(3) The need for a pupil to make informed decisions about his or her curriculum in middle school, junior high school and high school in preparation for success after graduation.

(f) An identification, by category, of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively.

(g) ~~[For]~~ ***A timeline for carrying out the plan, including, without limitation:***

(1) The rate of improvement and progress which must be attained annually in meeting the goals and benchmarks established by the State Board pursuant to subsection 3; and

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

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

(i) Strategies to improve the allocation of resources from this State, by program and by school district, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, 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.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

(k) A summary of the effectiveness 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.

(l) Any additional plans addressing the achievement and proficiency of pupils adopted by the Department.

3. The State Board shall:

(a) ***In developing the plan to improve the achievement of pupils enrolled in public schools, establish clearly defined goals and benchmarks for improving the achievement of pupils, including, without limitation, goals for:***

(1) Improving proficiency results in core academic subjects;

(2) Increasing the number of pupils enrolled in public middle schools and junior high schools, including, without limitation, charter schools, who enter public high schools with the skills necessary to succeed in high school;

(3) Improving the percentage of pupils who enroll in grade 9 and who graduate from a public high school, including, without limitation, a charter school, with a standard or higher diploma upon completion;

(4) Improving the performance of pupils on standardized college entrance examinations;

(5) Increasing the percentage of pupils enrolled in high schools who enter postsecondary educational institutions or who are career and workforce ready; and

(6) Reengaging disengaged youth who have dropped out of high school or who are at risk of dropping out of high school, including, without limitation, a mechanism for tracking and maintaining communication with those youth who have dropped out of school or who are at risk of doing so;

(b) Review the plan ~~[prepared pursuant to this section]~~ annually to evaluate the effectiveness of the plan; ~~[and~~

~~(b)]~~ ***(c) Examine the timeline for implementing the plan and each provision of the plan to determine whether the annual goals and benchmarks have been attained; and***

(d) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that ~~[the]~~ ***:***

(1) The goals and benchmarks set forth in the plan are being attained in a timely manner; and

(2) The plan is designed to improve the academic achievement of pupils enrolled in public schools in this State.

4. On or before December 15 of each year, the State Board shall submit the plan or the revised plan, as applicable, to the:

(a) Governor;

(b) Committee;

(c) Bureau;

(d) Board of Regents of the University of Nevada;

(e) **Council to Establish Academic Standards for Public Schools created by NRS 389.510;**

(f) Board of trustees of each school district; and

(g) ~~*[(f)]*~~ Governing body of each charter school.

Sec. 13. NRS 385.359 is hereby amended to read as follows:

385.359 1. The Bureau ~~[shall contract with a person or entity]~~ ***may, at the direction of the Committee, convene an advisory group*** to:

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

(1) Annual report of accountability prepared by:

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

(II) The board of trustees of each school district pursuant to NRS 385.347.

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

(I) The State Board pursuant to NRS 385.34691;

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

(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any, or if such a plan has not been prepared, the turnaround plan for the schools identified by the Bureau, if any, implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, as applicable.

(b) Submit a written report to and consult with the State Board and the Department regarding any methods by which the State Board may improve

the accuracy of the report of accountability required pursuant to NRS 385.3469 and the plan to improve the achievement of pupils required pursuant to NRS 385.34691, and the purposes for which the report and plan to improve are used.

(c) Submit a written report to and consult with each school district regarding any methods by which the district may improve the accuracy of the report required pursuant to subsection 2 of NRS 385.347 and the plan to improve the achievement of pupils required pursuant to NRS 385.348, and the purposes for which the report and plan to improve are used.

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

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

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

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

➥ whichever is applicable for the school.

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

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

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

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

2. ~~[The consultant with whom the Bureau contracts to perform the duties required]~~ ***If convened*** pursuant to subsection 1 ***, an advisory group*** must ***consist of members who*** possess the experience and knowledge necessary to perform those duties, as determined by the Committee.

Sec. 14. NRS 385.3781 is hereby amended to read as follows:

385.3781 As used in NRS 385.3781 to 385.379, inclusive, ***and*** ~~*[sections 2 and 3]*~~ ***section 3.3 of this act,*** unless the context otherwise requires, **the words and terms defined in NRS 385.3782 and 385.3783 have the meanings ascribed to them in those sections.** ~~*["Account" means the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379.]*~~

Sec. 15. **(Deleted by amendment.)**

Sec. 16. **(Deleted by amendment.)**

Sec. 17. **(Deleted by amendment.)**

Sec. 18. **(Deleted by amendment.)**

Sec. 19. **(Deleted by amendment.)**

Sec. 19.5. **NRS 385.600 is hereby amended to read as follows:**

385.600 As used in this section and NRS 385.610 and 385.620, ***and section 3.5 of this act,*** "Advisory Council" means the Advisory Council on Parental Involvement established pursuant to NRS 385.610.

Sec. 20. Chapter 388 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 21 and 22 of this act.]~~ **a new section to read as follows:**

The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Commission set forth in NRS 388.780 to 388.805, inclusive, are carried out by the Commission successfully.

Sec. 21. **(Deleted by amendment.)**

Sec. 22. **(Deleted by amendment.)**

Sec. 23. NRS 388.780 is hereby amended to read as follows:

388.780 As used in NRS 388.780 to 388.805, inclusive, ***and*** ~~*[sections 21 and 22]*~~ ***section 20 of this act,*** unless the context otherwise requires, **the words and terms defined in NRS 388.785 and 388.787 have the meanings ascribed to them in those sections.** ~~*["Committee" means the Legislative Committee on Education created by NRS 218E.605.]*~~

Sec. 24. **(Deleted by amendment.)**

Sec. 25. **(Deleted by amendment.)**

Sec. 26. **(Deleted by amendment.)**

Sec. 27. **(Deleted by amendment.)**

Sec. 27.5. **Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:**

The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Council set forth in NRS 389.500 to 389.570, inclusive, are carried out by the Council successfully.

Sec. 27.7. **NRS 389.500 is hereby amended to read as follows:**

389.500 As used in NRS 389.500 to 389.570, inclusive, ***and section 27.5 of this act,*** "Council" means the Council to Establish Academic Standards for Public Schools.

Sec. 28. **(Deleted by amendment.)**

Sec. 29. **(Deleted by amendment.)**

Sec. 30. **(Deleted by amendment.)**

Sec. 31. **(Deleted by amendment.)**

Sec. 32. **(Deleted by amendment.)**

Sec. 33. **(Deleted by amendment.)**

Sec. 34. **(Deleted by amendment.)**

Sec. 35. **(Deleted by amendment.)**

Sec. 36. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 37 ~~[and 38]~~ **to 38.7, inclusive,** of this act.

Sec. 37. ***On or before December 1 of each year, the Commission shall submit a written report to the State Board and the Legislative Committee on Education. The report must include, without limitation:***

1. A summary of the regulations adopted by the Commission and the status of those regulations;

2. A work plan which designates the proposed activities of the Commission during the next year; and

3. A description of the progress and status of each regulation relating to the licensure of educational personnel which the Commission is required to adopt pursuant to a legislative measure enacted within the two previous regular sessions of the Legislature or any special session of the Legislature occurring within that time. If the Commission has not adopted a required regulation, the Commission shall include in the report a detailed explanation describing the reasons each regulation was not adopted.

Sec. 38. **(Deleted by amendment.)**

Sec. 38.3. ***The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Commission set forth in this chapter are carried out by the Commission successfully.***

Sec. 38.5. ***The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Statewide Council and the regional training programs set forth in NRS 391.500 to 391.556, inclusive, and section 38.7 of this act are carried out by the Statewide Council and the regional training programs successfully.***

Sec. 38.7. ***1. The governing body of each regional training program shall establish an evaluation system for the teachers and other licensed educational personnel who participate in the program. The evaluation system must include:***

(a) Specific measures of the success of each teacher and other licensed person who participates in the training provided by the program; and

(b) Recommendations for follow-up for the teacher or other licensed person to strengthen his or her skills in the classroom or otherwise in his or her position of employment with the school district or charter school.

2. Each evaluation must be provided in written form to the person who is evaluated and the principal of the school at which the person is employed, if applicable, or, if the person is not supervised by a school principal, his or her direct supervisor.

Sec. 39. **(Deleted by amendment.)**

Sec. 40. **(Deleted by amendment.)**

Sec. 41. **(Deleted by amendment.)**

Sec. 42. NRS 391.027 is hereby amended to read as follows:

391.027 1. The State Board may disapprove any regulation adopted by the Commission . ~~[if the regulation:~~

~~(a) Threatens the efficient operation of the public schools in this State; or~~

~~(b) Creates an undue financial hardship for any teacher, administrator or other educational personnel or any county school district.]~~

2. A regulation shall be deemed approved if the State Board does not disapprove the regulation within 90 days after it is adopted by the Commission.

Sec. 43. (Deleted by amendment.)

Sec. 44. NRS 391.500 is hereby amended to read as follows:

391.500 As used in NRS 391.500 to 391.556, inclusive, ***and*** ~~*[section 38]*~~ ***sections 38.5 and 38.7 of this act,*** unless the context otherwise requires, **the words and terms defined in NRS 391.504 and 391.508 have the meanings ascribed to them in those sections.** ~~*["regional training program" means a regional training program for the professional development of teachers and administrators created pursuant to NRS 391.512.]*~~

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)

Sec. 47.5. **NRS 391.512 is hereby amended to read as follows:**

391.512 1. There are hereby created the Southern Nevada Regional Training Program, the Northeastern Nevada Regional Training Program and the Northwestern Nevada Regional Training Program. The governing body of each regional training program shall establish and operate a:

(a) Regional training program for the professional development of teachers and administrators.

(b) Nevada Early Literacy Intervention Program through the regional training program established pursuant to paragraph (a).

2. Except as otherwise provided in subsection 5, the Southern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by school districts in:

(a) Clark County;

(b) Esmeralda County;

(c) Lincoln County;

(d) Mineral County; and

(e) Nye County.

3. Except as otherwise provided in subsection 5, the Northeastern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by school districts in:

(a) ~~[Churchill County;~~

~~(b)]~~ Elko County;

~~[(c)]~~ ***(b)*** Eureka County;

~~[(d)]~~ ***(c)*** Lander County;

~~[(e)]~~ ***(d)*** Humboldt County;

~~[(f)]~~ ***(e)*** Pershing County; and

~~[(g)]~~ ***(f)*** White Pine County.

4. Except as otherwise provided in subsection 5, the Northwestern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by school districts in:

(a) Carson City;

(b) ***Churchill County;***

(c) Douglas County;

~~[(c)]~~ ***(d)*** Lyon County;

~~[(d)]~~ ***(e)*** Storey County; and

~~[(e)]~~ ***(f)*** Washoe County.

5. Each regional training program shall, when practicable, make reasonable accommodations for the attendance of teachers and administrators who are employed by school districts outside the primary jurisdiction of the regional training program.

6. The board of trustees of the:

(a) Clark County School District shall serve as the fiscal agent for the Southern Nevada Regional Training Program.

(b) Elko County School District shall serve as the fiscal agent for the Northeastern Nevada Regional Training Program.

(c) Washoe County School District shall serve as the fiscal agent for the Northwestern Nevada Regional Training Program.

➥ As fiscal agent, each school district is responsible for the payment, collection and holding of all money received from this State for the maintenance and support of the regional training program and Nevada Early Literacy Intervention Program established and operated by the applicable governing body.

Sec. 48. NRS 391.544 is hereby amended to read as follows:

391.544 1. Based upon the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391.540, each regional training program must provide:

(a) Training for teachers ***and other licensed educational personnel*** in the ~~[standards]~~ **:**

(1) Standards **established** ~~*[adopted]*~~ by the **Council to Establish Academic Standards for Public Schools** ~~*[State Board]*~~ pursuant to NRS 389.520 ~~[.]~~ **;**

(2) The curriculum and instruction required for the common core state standards adopted by the State Board;

(3) Curriculum and instruction recommended by the Teachers and Leaders Council of Nevada; and

(4) Culturally relevant pedagogy, taking into account cultural diversity and demographic differences throughout this State.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

(1) Phonemic awareness;

(2) Phonics;

(3) Vocabulary;

(4) Fluency;

(5) Comprehension; and

(6) Motivation.

(c) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b) of subsection 1, training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are limited English proficient.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance **established** ~~*[adopted]*~~ by the **Council to Establish Academic Standards for Public Schools** ~~*[State Board]*~~ pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

➥ The governing body shall provide a copy of the list on an annual basis to school districts for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district that is served by the regional training program as set forth in NRS 391.512 to provide professional development to the teachers and administrators employed by the school district that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

Sec. 49. **(Deleted by amendment.)**

Sec. 50. NRS 391.556 is hereby amended to read as follows:

391.556 The board of trustees of each school district shall submit an annual report to the State Board, the Commission, the Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes for the immediately preceding year:

1. The number of teachers and administrators employed by the school district who received training through the program ~~[; and]~~ ***, including, without limitation, the type of training received.***

2. An evaluation of whether that training included the ~~[standards]~~ ***:***

(a) Standards of content and performance **established** ~~*[adopted]*~~ by the **Council to Establish Academic Standards for Public Schools** ~~*[State Board]*~~ pursuant to NRS 389.520 ~~[.]~~ ***;***

(b) The curriculum and instruction required for the common core standards adopted by the State Board;

(c) The curriculum and instruction recommended by the Teachers and Leaders Council of Nevada; and

(d) Culturally relevant pedagogy, taking into account cultural diversity and demographic differences throughout this State.

3. An evaluation of the effectiveness of the training on improving the quality of instruction and the achievement of pupils.

Sec. 51. **(Deleted by amendment.)**

Sec. 52. **(Deleted by amendment.)**

Sec. 53. NRS 218E.625 is hereby amended to read as follows:

218E.625 1. The Legislative Bureau of Educational Accountability and Program Evaluation is hereby created within the Fiscal Analysis Division of the Legislative Counsel Bureau. The Fiscal Analysts shall appoint to the Legislative Bureau of Educational Accountability and Program Evaluation a Chief and such other personnel as the Fiscal Analysts determine are necessary for the Bureau to carry out its duties pursuant to this section.

2. The Bureau shall, as the Fiscal Analysts determine is necessary or at the request of the Committee:

(a) Collect and analyze data and issue written reports concerning:

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

(2) The statewide program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(3) The statewide program to educate persons with disabilities that is set forth in chapter 395 of NRS;

(4) The results of the examinations of the National Assessment of Educational Progress that are administered pursuant to NRS 389.012; and

(5) Any program or legislative measure, the purpose of which is to reform the system of education within this State.

(b) Conduct studies and analyses to evaluate the performance and progress of the system of public education within this State. Such studies and analyses may be conducted:

(1) As the Fiscal Analysts determine are necessary; or

(2) At the request of the Legislature.

➥ This paragraph does not prohibit the Bureau from contracting with a person or entity to conduct studies and analyses on behalf of the Bureau.

(c) On or before ~~[December 31]~~ ***October 1*** of each even-numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The Bureau shall, on or before ~~[December 31]~~ ***October 1*** of each odd-numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the Director of the Legislative Counsel Bureau for transmission to the Legislative Commission ~~[.]~~ ***and to the Legislative Committee on Education.***

3. The Bureau may, pursuant to NRS 218F.620, require a school, a school district, the Nevada System of Higher Education or the Department of Education to submit to the Bureau books, papers, records and other information that the Chief of the Bureau determines are necessary to carry out the duties of the Bureau pursuant to this section. An entity whom the Bureau requests to produce records or other information shall provide the records or other information in any readily available format specified by the Bureau.

4. Except as otherwise provided in this subsection or NRS 239.0115, any information obtained by the Bureau pursuant to this section shall be deemed a work product that is confidential pursuant to NRS 218F.150. The Bureau may, at the discretion of the Chief and after submission to the Legislature or Legislative Commission, as appropriate, publish reports of its findings pursuant to paragraphs (a) and (b) of subsection 2.

5. This section does not prohibit the Department of Education or the State Board of Education from conducting analyses, submitting reports or otherwise reviewing educational programs in this State.

Sec. 53.5. **Section 23 of Assembly Bill No. 579 of this session is hereby repealed.**

Sec. 54. ~~[1. NRS 385.3782, 385.3783, 385.3784, 388.785, 388.787, 388.790, 389.500, 389.510, 389.530, 391.504, 391.508 and 391.516 are hereby repealed.~~

~~2.]~~ NRS **385.017,** 385.0175, 385.018, 385.019, 385.0225, 385.023, 385.0235, 385.024, 385.0245, 385.025, 385.0255, 385.0257, 385.026 and 385.0265 are hereby repealed.

Sec. 54.5. **1. The Department of Education shall transfer the following sums from the Account for Programs for Innovation and the**

Prevention of Remediation created by NRS 385.379 to the school districts specified in this subsection:

	FY 2012	FY 2013
Clark County School District	$1,450,005	$1,450,005
Elko County School District	$1,335,736	$1,335,736
Washoe County School District	$1,154,698	$1,154,698
Total	$3,940,439	$3,940,439

2. The Department of Education shall transfer the following sums from the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 to the school districts specified in this subsection:

	FY 2012	FY 2013
Clark County School District	$2,533,351	$2,533,351
Washoe County School District	$987,158	$987,158
Total	$3,520,509	$3,520,509

3. A school district that receives an allocation pursuant to subsection 1 shall serve as fiscal agent for the respective regional training program for the professional development of teachers and administrators. As fiscal agent, each school district is responsible for the payment, collection and holding of all money received from this State for the maintenance and support of the regional training program for the professional development of teachers and administrators and the Nevada Early Literacy Intervention Program established and operated by the applicable governing body. The Clark County School District and the Washoe County School District shall not use any of the money allocated pursuant to subsection 1 for the purchase of professional development to the teachers and administrators that it employs, other than the money which is allocated for the administration and overhead of the regional training program.

4. The Clark County School District and the Washoe County School District shall use the money allocated to the school district pursuant to subsection 2 for the provision of professional development for teachers and administrators employed by that school district, which may include, without limitation, the provision of professional development through the regional training program for the professional development of teachers and administrators. If the Clark County School District or the Washoe County School District elects to use all or a portion of the money allocated pursuant to subsection 2 to purchase professional development services from the regional training program for the professional development of teachers and administrators, the School District shall provide written notice to the regional training program on or before August 1, 2011, for the 2011-2012 Fiscal Year, and March 1, 2012, for the 2012-2013 Fiscal Year.

5. On or before February 1, 2013, the Clark County School District and the Washoe County School District shall each submit a report to the

Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature which describes:

(a) The professional development purchased by the School District from the allocation made pursuant to subsection 2; and

(b) The effectiveness of the professional development purchased pursuant to subsection 2 on improving the quality of instruction and the achievement of pupils in the School District.

6. Any balance of the transfers made by subsections 1 and 2 remaining at the end of the 2011-2012 Fiscal Year must be added to the money received by the school districts for the 2012-2013 Fiscal Year and may be expended as that money is expended. Any remaining balance of the transfers made by subsections 1 and 2 for the 2012-2013 Fiscal Year, including any money added from the transfer for the previous fiscal year, must not be committed for expenditure after June 30, 2013, by the entity to which the transfer is made or any entity to which money from the transfer is granted or otherwise transferred in any manner, and any portion of the transferred money remaining must not be spent for any purpose after September 20, 2013, by the entity to which the money was transferred, and must be reverted to the State General Fund on or before September 20, 2013.

Sec. 55. 1. The terms of all members of the State Board of Education who are incumbent on ~~[December 31, 2012,]~~ **January 7, 2013,** expire on that date.

2. On or before January ~~[1,]~~ **8,** 2013, the Governor ~~[, the Majority Leader of the Senate and the Speaker of the Assembly]~~ shall ~~[each]~~ appoint ~~[one member]~~ **the members** to the ~~[Nevada Commission on K-12 Public]~~ **State Board of** Education ~~[who meets]~~ **in accordance with** the qualifications set forth in NRS 385.021, as amended by section 6 of this act, ~~[to an initial term commencing on January 1, 2013, and expiring on December 31, 2014.~~

~~3. On or before January 1, 2013, the Nevada Association of School Boards shall appoint one member to the Nevada Commission on K-12 Public Education who meets the qualifications set forth in paragraph (a) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to an initial term commencing on January 1, 2013, and expiring on December 31, 2013.~~

~~4. On or before January 1, 2013, the Nevada Association of School Superintendents shall appoint one member to the Nevada Commission on K-12 Public Education who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to an initial term commencing on January 1, 2013, and expiring on December 31, 2013.~~

~~5. On or before January 1, 2013, the Board of Regents of the University of Nevada shall appoint one member to the Nevada Commission on K-12 Public Education who meets the qualifications set forth in paragraph (c) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to an~~

~~initial term commencing on January 1, 2013, and expiring on December 31, 2013.~~

~~6. On or before January 1, 2013, the Nevada Association of Student Councils or its successor organization shall appoint one member to the Nevada Commission on K-12 Public Education who meets the qualifications set forth in paragraph (d) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to an initial term commencing on January 1, 2013, and expiring on December 31, 2013.~~ **as follows:**

(a) Three voting members pursuant to paragraphs (b), (c) and (d) of subsection 1 of NRS 385.021, as amended by section 6 of this act, to initial terms commencing on January 8, 2013, and expiring on January 5, 2015.

(b) Three nonvoting members pursuant to paragraphs (a), (b) and (c) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to initial terms commencing on January 8, 2013, and expiring on January 6, 2014.

(c) One nonvoting member pursuant to paragraph (d) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to an initial term commencing on January 8, 2013, and expiring on May 31, 2014.

Sec. 56. **(Deleted by amendment.)**

Sec. 57. **(Deleted by amendment.)**

Sec. 58. 1. The ~~[Nevada Commission on K-12 Public]~~ **State Board of** Education shall review any vision and mission statements adopted by the ~~[former]~~ State Board ~~[of Education]~~ and revise those statements, as determined necessary by the ~~[Commission,]~~ **State Board,** to ensure that the pupils enrolled in public schools in this State have access to a high quality education and are fully prepared for the future and for competing successfully in a global economy and to help guide and accelerate Nevada's K-12 public education system into the future. In its review and revision, the ~~[Commission]~~ **State Board** shall review the vision and mission statements for K-12 public education developed by state entities responsible for public education in other states.

2. On or before July 1, 2013, the ~~[Nevada Commission on K-12 Public]~~ **State Board of** Education shall submit the revised vision and mission statements developed pursuant to subsection 1 to the:

(a) Governor; and

(b) Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature and to the Legislative Committee on Education.

3. The ~~[Nevada Commission on K-12 Public]~~ **State Board of** Education shall post on its Internet website the revised vision and mission statements developed pursuant to subsection 1.

Sec. 58.5. **1. The Superintendent of Public Instruction who was appointed pursuant to NRS 385.150 to a term expiring in March 2013 continues to serve for the remainder of the unexpired term. If a vacancy**

occurs before the expiration of that term, the Governor shall appoint the Superintendent of Public Instruction in accordance with NRS 385.150, as amended by section 8.5 of this act, for the remainder of the unexpired term.

2. If a vacancy does not occur pursuant to subsection 1, upon the expiration of the current term of the Superintendent of Public Instruction, the Governor shall appoint the Superintendent of Public Instruction pursuant to NRS 385.150, as amended by section 8.5 of this act.

Sec. 58.7. **1. Not later than July 1, 2011, the Elko County School District shall transfer from the Northeastern Nevada Regional Training Program to the Washoe County School District for the Northwestern Nevada Regional Training Program an appropriate sum of money to reflect the changes made by NRS 391.512, as amended by section 47.5 of this act.**

2. Commencing on July 1, 2011, the Churchill County School District shall be within the jurisdiction of the Northwestern Nevada Regional Training Program as set forth in NRS 391.512, as amended by section 47.5 of this act.

Sec. 59. (Deleted by amendment.)

Sec. 60. (Deleted by amendment.)

Sec. 61. (Deleted by amendment.)

Sec. 62. (Deleted by amendment.)

Sec. 63. (Deleted by amendment.)

Sec. 64. 1. This section and ~~[section 56]~~ **sections 53.5 and 58.7** of this act become effective upon passage and approval.

2. Sections 1 to ~~[3,]~~ **5,** inclusive, 8 to ~~[38,]~~ **53,** inclusive, ~~[42 to 53,~~ ~~inclusive, subsection 1 of section 54, 55, 57, and 59]~~ **47.5, 54.5 to 57, inclusive, and 58.5** to ~~[62,]~~ **63,** inclusive, of this act become effective on July 1, 2011.

3. ~~[Section 39 of this act becomes effective on October 1, 2011, for purposes of making appointments to the Commission on Professional Standards in Education pursuant to section 57 of this act and on January 1, 2012, for all other purposes.~~

~~4. Sections 40, 41 and 63 of this act become effective on January 1, 2012.~~

~~5. Subsection 2 of section 54 of this act becomes effective on January 1, 2013.~~

~~6.]~~ **Section 54 of this act becomes effective on November 7, 2012.**

4. Section 6 of this act becomes effective on January 1, 2012, for the ~~[purposes of filing a declaration or acceptance of candidacy for the office of Commissioner of the Nevada Commission on K-12 Public Education on the ballot for the 2012 General Election and on January 1, 2013, for all other purposes.~~

~~7.~~ **purpose of filing for office and for nominating and electing members of the State Board of Education and on January 8, 2013, for all other purposes.**

5. Sections ~~[4, 5,]~~ 7 and 58 of this act become effective on January 1, 2013.

LEADLINES OF REPEALED SECTIONS

385.017 Definitions.

385.0175 Maps of districts: Duties of Director of Legislative Counsel Bureau.

385.018 Maps of districts: Duties of Secretary of State.

385.019 Attachment of omitted area to appropriate district.

385.0225 District 1.

385.023 District 2.

385.0235 District 3.

385.024 District 4.

385.0245 District 5.

385.025 District 6.

385.0255 District 7.

385.0257 District 8.

385.026 District 9.

385.0265 District 10.

~~[385.3782 "Account" defined.~~

~~385.3783 "Commission" defined.~~

~~385.3784 Commission: Creation; membership; terms; meetings; compensation of members; duty of Department to provide administrative support; involvement of the Legislative Counsel Bureau in activities of Commission.~~

~~388.785 "Commission" defined.~~

~~388.787 "Committee" defined.~~

~~388.790 Commission on Educational Technology: Creation; membership; terms; removal and vacancy; quarterly meetings required; compensation.~~

~~389.500 "Council" defined.~~

~~389.510 Council to Establish Academic Standards: Creation; membership; terms; compensation.~~

~~389.530 Council to Establish Academic Standards: Duty of Department to provide support; assistance from other state agencies.~~

~~391.504 "Regional training program" defined.~~

~~391.508 "Statewide Council" defined.~~

~~391.516 Statewide Council for the Coordination of the Regional Training Programs: Creation; membership; terms; compensation; administrative support authorized.]~~

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. 942 makes significant changes to the bill. Major changes include the following items.

For the State Board of Education, the amendment provides that there are 11 total members. Seven are voting and four are non-voting. Of the seven voting members, four are elected by Congressional District and serve four years. Three of the voting members are appointed by the Governor, with the Senate Majority Leader and the Speaker of the Assembly nominating one each. These appointed members serve two-year terms with the ability to be reappointed for a second two-year term. Voting member appointees must include a teacher, a parent, and a business person and must reflect the State's geographic diversity. A list of three nominees for the teacher appointment will be provided by the Nevada State Education Association.

With regard to the four non-voting members, one is a school board member appointed by the Nevada Association of School Boards, one is a district superintendent appointed by the Nevada Association of School Superintendents, one is a representative of the Nevada System of Higher Education appointed by the Board of Regents, and one is a public school student appointed by the Nevada Association of Student Councils in consultation with the Nevada Youth Legislature. Non-voting appointed members serve one-year terms with a one-year reappointment option. The term for the student is based upon a school year.

The Board must meet at least 9 and not more than 12 times a year, one of which must be an "education summit."

The changes to the Superintendent of Public Instruction include the following measures:

The Superintendent will now be appointed by the Governor from a list of three names submitted by the State Board of Education. The Superintendent serves at the pleasure of the Governor and is in the Executive Department of State Government.

The Superintendent serves as the State's educational leader and is charged with enforcing the State education statutes and regulations governing K-12 public education. As part of that authority, he or she may impose corrective plans for non-compliance.

In consultation with the State Board, the Superintendent prepares a detailed report on the state of public education in Nevada.

The Superintendent is responsible for ensuring the duties and responsibilities are carried out successfully by the Commission on Educational Excellence, the Advisory Council on Parent Involvement, the Commission on Educational Technology and the Council to Establish Academic Standards.

There is one revision to the activities of the Commission on Professional Standards in Education. This is the commission responsible for teacher licensure. The Commission must now report to the State Board and to the Legislature about its progress and prepare a work plan for adopting required regulations.

For the Regional Professional Development Programs (RPDPs), the amendment does the following.

It transfers the Churchill County School District to the Northwest Nevada regional training program, and provides authority for transferring appropriate funding associated with that transfer.

It revises the funding mechanism for the RPDPs to provide flexibility to the Clark and Washoe County school districts in obtaining professional development for teachers and other licensed educational personnel. Sufficient funding is provided to the program currently serving the Clark County and Washoe County school districts for administrative costs, and for direct professional services to the rural school districts served by the region.

It requires each RPDP to establish an evaluation system for teachers and other licensed educational personnel. The evaluation system shall include measures of success and recommendations for follow-up. The evaluation is to be provided to the person evaluated and to the principal.

In addition to training in the academic standards, the measure adds curriculum and instruction, as related to the common core standards and culturally relevant pedagogy.

This is what is known as the governance bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 360.

Bill read third time.

The following amendment was proposed by Senator Horsford:

Amendment No. 925.

"SUMMARY—Revises provisions governing redevelopment agencies. (BDR 22-937)"

"AN ACT relating to redevelopment of communities; revising requirements for the submission of an employment plan; requiring a redevelopment agency to withhold a portion of any incentive provided to a developer unless the developer satisfies certain conditions; requiring the reporting of certain information relating to the redevelopment project by certain developers; **extending the duration of certain redevelopment plans;** requiring an employment plan to include information relating to preferences for hiring persons from the redevelopment area; **authorizing a redevelopment agency to loan money to finance certain improvements under certain circumstances; requiring certain redevelopment agencies to set aside certain revenue from property taxes for additional purposes;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, if a redevelopment agency provides property for development for less than the fair market value of the property or provides financial incentives of more than $100,000 to a developer, the developer must comply with certain laws relating to the payment of a prevailing wage. (NRS 279.500) Additionally, a proposal for a redevelopment project must include an employment plan, if appropriate. (NRS 279.482)

Sections 2-9 of this bill only apply to a developer for a redevelopment project if part of the redevelopment area is within an enterprise community. **Section 6** of this bill ~~[exempts]~~ **requires** public agencies who use redevelopment funds for a public work ~~[and private developers who do not construct a redevelopment project for a known owner from the requirement]~~ to submit an employment plan ~~[.]~~ **and exempts private developers who do not construct a redevelopment project for a known owner from that requirement.** **Section 7** of this bill requires an agency that proposes to provide an incentive to a developer to withhold payment of 10 percent of the incentive unless: (1) 15 percent of the employees of contractors, subcontractors, vendors and suppliers of the developer are residents of the redevelopment area; (2) 15 percent of the jobs created by employers as a result of the redevelopment project are filled by residents of the redevelopment area; (3) the developer or build-to-suit owner or lessee complies with the requirements in the employment plan; and (4) the developer satisfies the reporting required by **section 8** of this bill. **Section 9**

of this bill allows a developer to appeal a refusal to pay the amount provided for in **section 7** to the legislative body of the community.

Section 8 requires a developer that receives an incentive of more than $100,000 to report to the redevelopment agency certain information relating to the redevelopment project. **Section 8** also requires a developer that receives $100,000 or less in incentives to use its best efforts to report such information. Finally, **section 8** allows the redevelopment agency to refuse to pay all or a portion of the incentive or to require repayment of any incentive already paid if a developer fails to comply.

Section 11 of this bill requires the employment plan to include information about the preference for hiring persons living within the redevelopment area used by the developer and each employer who will be relocating a business into the area as a result of the redevelopment.

~~[Section 12 of this bill makes an appropriation for a study of the feasibility of a renewable energy sustainability center in the Southern Nevada Enterprise Community.]~~

Existing law provides that a redevelopment plan adopted by a redevelopment agency before July 1, 1991, terminates at the end of the fiscal year in which the principal and interest of the last maturing securities issued before that date concerning the redevelopment area are fully paid, or 45 years after the date on which the original redevelopment plan was adopted, whichever is later. (NRS 279.438) Section 10.5 of this bill provides that in a county whose population is 700,000 or more (currently Clark County), such a redevelopment plan terminates at the end of the fiscal year in which the principal and interest of the last maturing securities issued before that date concerning the redevelopment area are fully paid, or 60 years after the date on which the original redevelopment plan was adopted, whichever is later.

Section 13 of this bill authorizes a redevelopment agency to loan money to finance certain improvements with the consent of the legislative body of the community where the redevelopment agency is located.

Section 14 of this bill requires the redevelopment agency of a city whose population if 300,000 or more (currently the City of Las Vegas) that receives certain revenue from taxes set aside a portion of those revenues received on or after July 1, 2011, to be used for specific purposes, including renewable energy projects, economic development, improvement of public educational facilities and the development of affordable housing within enterprise communities.

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

Section 1. Chapter 279 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. ***"Build-to-suit developer" means a private developer who constructs a redevelopment project in accordance with the customized***

specifications of a known owner or lessee to whom the developer will convey or lease the property upon completion of the project.

Sec. 3. *"Build-to-suit owner or lessee" means the owner or lessee of a redevelopment project that has been constructed by a build-to-suit developer to the customized specifications of the owner or lessee.*

Sec. 4. *"Developer" means a person or entity that proposes to construct a redevelopment project which will receive financial assistance from an agency.*

Sec. 5. *"Southern Nevada Enterprise Community" means the area designated as the Southern Nevada Enterprise Community in section 5 of chapter 407, Statutes of Nevada 2007.*

Sec. 5.5. *The provisions of sections 2 to 9, inclusive, of this act do not apply to a developer for a redevelopment project unless a portion of the redevelopment area of the redevelopment project is within an enterprise community which is currently or was previously established pursuant to 24 C.F.R. Part 597, including without limitation, the Southern Nevada Enterprise Community.*

Sec. 6. *1. A public agency that uses redevelopment funds for the design or construction of a redevelopment project being built as a public work pursuant to chapter 338 of NRS is ~~[not]~~ required to submit an employment plan pursuant to NRS 279.482.*

2. A developer who constructs a redevelopment project for the purpose of conveying or leasing the property to an unknown owner or lessee is not required to submit an employment plan pursuant to NRS 279.482 but may submit an employment plan voluntarily.

Sec. 7. *1. Except as otherwise provided in subsection 2, if an agency proposes to provide an incentive to a developer for a redevelopment project, 10 percent of the amount of the proposed incentive must be withheld by the agency and must not be paid to the developer unless:*

(a) At least 15 percent of all employees of contractors, subcontractors, vendors and suppliers of the developer are bona fide residents of the redevelopment area and, among such persons, preference in hiring and contracting is given to residents of the Southern Nevada Enterprise Community;

(b) At least 15 percent of all jobs created by employers who relocate to the redevelopment area are filled by bona fide residents of the redevelopment area and, among such persons, preference in hiring is given to residents of the Southern Nevada Enterprise Community;

(c) The developer or build-to-suit owner or lessee complies with any requirements imposed by the agency relating to the employment plan in the agreement for the redevelopment project; and

(d) The developer satisfies all reporting requirements as described in section 8 of this act.

2. If an agency provides nonmonetary incentives to a developer for a redevelopment project, the developer shall deposit an amount of money

with the agency equal to 10 percent of the value of the nonmonetary incentives as agreed upon between the agency and the developer. If the developer satisfies the requirements of paragraphs (a) to (d), inclusive, of subsection 1, the agency shall return the deposit required by this subsection to the developer.

Sec. 8. ***1. Except as otherwise provided in subsection 2, a developer that receives incentives from an agency for a redevelopment project shall, upon completion of the project and upon request of the agency, report, in a form prescribed by the agency, information relating to:***

(a) Outreach efforts that the developer has utilized, including, without limitation, information relating to job fairs, advertisements in publications that reach residents of the redevelopment area and utilization of employment referral agencies;

(b) Training conducted for persons hired by the developer and contractors, subcontractors, vendors and suppliers of the developer and the employers within the development project; and

(c) The execution of the redevelopment, including, without limitation, plans and the scope of services.

2. If a developer receives incentives from an agency for a redevelopment project with a value of $100,000 or less, the developer shall use its best efforts to satisfy the reporting requirements described in subsection 1.

3. If the developer fails to comply with the requirements of this section:

(a) The agency may refuse to pay all or any portion of an incentive; and

(b) The agency may require the developer to repay any incentive already paid to the developer.

Sec. 9. ***1. A developer may appeal the refusal by an agency to pay the amount provided for in section 7 of this act to the legislative body of the community.***

2. In an appeal, the developer has the burden of demonstrating that:

(a) Specific actions were taken to substantially fulfill the requirements of section 7 of this act;

(b) An insufficient number of significant opportunities for appropriate contractors, subcontractors, vendors or suppliers to perform a commercially useful function in the project existed; and

(c) Use of appropriate contractors, subcontractors, vendors or suppliers as required by section 7 of this act would have significantly and adversely affected the overall cost of the project.

3. If the legislative body finds that the developer's appeal has satisfied the requirements of subsection 2, the agency shall pay the developer the amount provided for in section 7 of this act.

Sec. 10. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, ***and sections 2 to 9, inclusive, of this act,*** unless the context otherwise requires, the words and

terms defined in NRS 279.386 to 279.414, inclusive, ***and sections 2 to 5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 10.5. **NRS 279.438 is hereby amended to read as follows:**

279.438 A redevelopment plan adopted before January 1, 1991, and any amendments to the plan must terminate at the end of the fiscal year in which the principal and interest of the last maturing of the securities issued before that date concerning the redevelopment area are fully paid or ***:***

1. In a county whose population is 700,000 or more, 60 years after the date on which the original redevelopment plan was adopted, whichever is later.

2. In a county whose population is less than 700,000, 45 years after the date on which the original redevelopment plan was adopted, whichever is later.

Sec. 11. NRS 279.482 is hereby amended to read as follows:

279.482 1. An agency may obligate lessees or purchasers of property acquired in a redevelopment project to:

(a) Use the property for the purpose designated in the redevelopment plans.

(b) Begin the redevelopment of the area within a period of time which the agency fixes as reasonable.

(c) Comply with other conditions which the agency deems necessary to carry out the purposes of NRS 279.382 to 279.685, inclusive, including, without limitation, the provisions of an employment plan or a contract approved for a redevelopment project.

2. ~~[As]~~ ***Except as otherwise provided in section 6 of this act, as*** appropriate for the particular project, each proposal for a redevelopment project must also include an employment plan. The employment plan must include:

(a) A description of the existing opportunities for employment within the area;

(b) A projection of the effect that the redevelopment project will have on opportunities for employment within the area; ~~[and]~~

(c) A description of the manner in which an employer relocating a business into the area plans to employ persons living within the area of operation who:

(1) Are economically disadvantaged;

(2) Have a physical disability;

(3) Are members of racial minorities;

(4) Are veterans; or

(5) Are women ~~[.]~~ ***; and***

(d) A description of the manner in which:

(1) The developer will give a preference in hiring for construction jobs for the project to persons living within the redevelopment area and, among such persons, to persons living within the Southern Nevada Enterprise Community; and

(2) Each employer relocating a business into the area plans to give a preference in hiring to persons living within the redevelopment area and, among such persons, to persons living within the Southern Nevada Enterprise Community.

Sec. 12. ~~[There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of $50,000 for the contractual services of a consultant to study the feasibility of a renewable energy sustainability center in the Southern Nevada Enterprise Community.]~~ **(Deleted by amendment.)**

Sec. 13. **NRS 279.486 is hereby amended to read as follows:**

279.486 1. An agency may, with the consent of the legislative body, pay all or part of the value of ***, or loan money to finance,*** the land for and the cost of the construction of any building, facility, structure or other improvement and the installation of any improvement which is publicly or privately owned and located within or without the redevelopment area. Before the legislative body may give its consent, it must determine that:

(a) The buildings, facilities, structures or other improvements are of benefit to the redevelopment area or the immediate neighborhood in which the redevelopment area is located; and

(b) No other reasonable means of financing those buildings, facilities, structures or other improvements are available.

➥ Those determinations by the agency and the legislative body are final and conclusive.

2. In reaching its determination that the buildings, facilities, structures or other improvements are of benefit to the redevelopment area or the immediate neighborhood in which the redevelopment area is located, the legislative body shall consider:

(a) Whether the buildings, facilities, structures or other improvements are likely to:

(1) Encourage the creation of new business or other appropriate development;

(2) Create jobs or other business opportunities for nearby residents;

(3) Increase local revenues from desirable sources;

(4) Increase levels of human activity in the redevelopment area or the immediate neighborhood in which the redevelopment area is located;

(5) Possess attributes that are unique, either as to type of use or level of quality and design;

(6) Require for their construction, installation or operation the use of qualified and trained labor; and

(7) Demonstrate greater social or financial benefits to the community than would a similar set of buildings, facilities, structures or other improvements not paid for by the agency.

(b) The opinions of persons who reside in the redevelopment area or the immediate neighborhood in which the redevelopment area is located.

(c) Comparisons between the level of spending proposed by the agency and projections, made on a pro forma basis by the agency, of future revenues attributable to the buildings, facilities, structures or other improvements.

3. If the value of that land or the cost of the construction of that building, facility, structure or other improvement, or the installation of any improvement has been, or will be, paid or provided for initially by the community or other governmental entity, the agency may enter into a contract with that community or governmental entity under which it agrees to reimburse the community or governmental entity for all or part of the value of that land or of the cost of the building, facility, structure or other improvement, or both, by periodic payments over a period of years. The obligation of the agency under that contract constitutes an indebtedness of the agency which may be payable out of taxes levied and allocated to the agency under paragraph (b) of subsection 1 of NRS 279.676, or out of any other available money.

Sec. 14. **NRS 279.685 is hereby amended to read as follows:**

279.685 1. Except as otherwise provided in this section, an agency of a city whose population is 300,000 or more that receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676 shall ~~[set]~~ ***:***

(a) Set aside not less than 15 percent of that revenue received on or before October 1, 1999, and 18 percent of that revenue received after October 1, 1999, ***but before July 1, 2011,*** to increase, improve and preserve the number of dwelling units in the community for low-income households.

(b) Use not less than 18 percent of that revenue received on or after July 1, 2011, as follows:

(1) One half of such amount for economic development, renewable energy projects, the improvement of public educational facilities and the development of affordable housing within an enterprise community which is currently or was previously established pursuant to 24 C.F.R. Part 597, including, without limitation, the Southern Nevada Enterprise Community.

(2) One half of such amount for the improvement of public educational facilities within the community and to increase, improve and preserve the number of dwelling units in the community for low-income households.

2. The obligation of an agency to set aside not less than 15 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 1993, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after July 1, 1993, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

3. The obligation of an agency to set aside an additional 3 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before October 1, 1999, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after October 1, 1999, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

4. ~~[The]~~ ***Except as otherwise provided in paragraph (b) of subsection 1, the*** agency may expend or otherwise commit money for the purposes of subsection 1 outside the boundaries of the redevelopment area.

Sec. 15. **Section 6 of Senate Bill No. 92 of this session is hereby repealed.**

~~[Sec. 13.]~~ ***Sec. 16.*** This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

Section 6 of Senate Bill No. 92 of this session:

Sec. 6. NRS 279.685 is hereby amended to read as follows:

279.685 1. Except as otherwise provided in this section, an agency of a city whose population is 300,000 or more that receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676 shall set aside not less than ~~[15]~~ ***:***

(a) Fifteen percent of that revenue received on or before October 1, 1999, and 18 percent of that revenue received after October 1, 1999, ***but before October 1, 2011,*** to increase, improve and preserve the number of dwelling units in the community for low-income households ~~[.]~~ ***; and***

(b) Eighteen percent of that revenue received on or after October 1, 2011, to increase, improve and preserve the number of:

(1) Dwelling units in the community for low-income households; and

(2) Educational facilities within the redevelopment area.

2. The obligation of an agency to set aside not less than 15 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 1993, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after July 1, 1993, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

3. The obligation of an agency to set aside an additional 3 percent of the revenue from taxes allocated to and received by the agency pursuant to

paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before October 1, 1999, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after October 1, 1999, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

4. ~~[The]~~ ***From the revenue set aside by an agency pursuant to paragraph (b) of subsection 1, not more than 50 percent of that amount may be used to:***

(a) Increase, improve and preserve the number of dwelling units in the community for low-income households; or

(b) Increase, improve and preserve the number of educational facilities within the redevelopment area,

➥ unless the agency establishes that such an amount is insufficient to pay the cost of a project identified in the redevelopment plan for the redevelopment area.

5. Except as otherwise provided in paragraph (b) of subsection 1 and subsection 4, the agency may expend or otherwise commit money for the purposes of subsection 1 outside the boundaries of the redevelopment area.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Senate Bill No. 360 as amended by Amendment No. 925 requires public agencies that use redevelopment funds for redevelopment projects being built as a public work to submit an employment plan as specified in statute. In addition, this bill provides that certain private developers who construct a redevelopment project for the purpose of conveying or leasing the property to an unknown owner or lessee may voluntarily submit an employment plan. This bill also requires employment plans to include certain information about preferences for hiring persons living within the redevelopment area.

Senate Bill No. 360 requires an agency that proposes to provide an incentive to certain developers to withhold payment of 10 percent of the incentive unless at least 15 percent of the employees of contractors, subcontractors, vendors and suppliers of the developer are residents of the redevelopment area.

This bill allows for redevelopment plans adopted before January 1, 1991, and any amendments to the redevelopment plan, to terminate on various timeframes based upon a certain population threshold. This bill also requires an agency of a city whose population exceeds a certain threshold, on or after July 1, 2011, to use one-half of its low-income housing set-aside funds for economic development, renewable energy projects, education projects and the development of affordable housing within an enterprise community specified in statute.

Amendment adopted.

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

Senate Bill No. 371.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 948.

"SUMMARY—Makes various changes concerning the protection of children. (BDR 38-3)"

"AN ACT relating to children; requiring the nomination and appointment of a person who is legally responsible for the ~~[health]~~ **psychiatric** care of a child who is placed in the custody of an agency which provides child welfare services; establishing the duties and responsibilities of such a legally responsible person; ~~[imposing criminal and civil liability on a legally responsible person for certain acts committed by or harm occurring to a child under certain circumstances;]~~ revising provisions governing the provision of ~~[mental health]~~ **psychiatric** care to children in the custody of agencies which provide child welfare services; revising provisions relating to the health care records of children who are placed in the custody of such an agency; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, each agency which provides child welfare services is required to establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. (NRS 432B.197) **Sections 2-7** of this bill require the appointment of a person who is legally responsible for the ~~[health]~~ **psychiatric** care of each child who is in the custody of such an agency and who requires ~~[mental health]~~ **psychiatric** care, including making all decisions concerning services, treatment and psychotropic medications provided to such children.

Section 3 of this bill requires an agency which provides child welfare services to nominate a person who is legally responsible for the ~~[health]~~ **psychiatric** care of a child who is in the custody of the agency and who requires ~~[mental health]~~ **psychiatric** care. The court with jurisdiction over the child is required pursuant to **section 7** of this bill to appoint a person who is legally responsible for the ~~[health]~~ **psychiatric** care of the child. The court may appoint the person nominated by the agency or may appoint any other person who the court determines is qualified to carry out the duties and responsibilities of a person who is legally responsible for the ~~[health]~~ **psychiatric** care of the child**.** ***To the extent that a parent or legal guardian of the child is able and willing to serve as the person who is legally responsible for the psychiatric care of the child, the parent or guardian must be nominated and appointed pursuant to this bill.***

Section 4 of this bill requires the person who is legally responsible for the ~~[health]~~ **psychiatric** care of a child to provide written consent or, in writing, deny consent for each appointment or for a course of routine treatment for ~~[mental health]~~ **psychiatric** care of the child and to maintain current information concerning the medical history and the emotional, behavioral and educational needs of the child. **Section 4 also requires the person who is legally responsible for the psychiatric care of a child to notify the**

parent or legal guardian, if applicable, and the agency which provides child welfare services of each appointment.

Section 5 of this bill requires the person who is legally responsible for the ~~[health]~~ **psychiatric** care of a child to approve or deny the administration of each psychotropic medication recommended for the child and to provide notice of the approval or denial. **Sections 5 and 9** of this bill prohibit the administration of a psychotropic medication to a child in the custody of an agency without consent from the person who is legally responsible for the ~~[health]~~ **psychiatric** care of the child. **Section 5.5 of this bill sets forth circumstances in which a child in the custody of an agency which provides child welfare services may be administered a psychotropic medication without the approval of the person who is legally responsible for the psychiatric care of the child, including in cases of emergency.**

~~[Section 6 of this bill requires that reasonable care be taken by a person who is legally responsible for the health care of a child and imposes criminal and civil liability for certain acts committed by or harm occurring to the child under certain circumstances.]~~

Section 14 of this bill requires certain providers of health care to obtain written consent from a person who is legally responsible for the ~~[health]~~ **psychiatric** care of a child before providing ~~[mental health]~~ **psychiatric** care to a child in the custody of an agency which provides child welfare services and requires the provider of health care to keep a copy of the consent in the health care record of the child.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***As used in NRS 432B.197 and sections 2 to 6, inclusive, of this act, unless the context otherwise requires, ~~[***"person professionally qualified in the field of psychiatric mental health" has the meaning ascribed to it in NRS 433A.018.***]*** the words and terms defined in sections 2.3 and 2.5 of this act have the meanings ascribed to them in those sections.***

Sec. 2.3. ***"Person professionally qualified in the field of psychiatric mental health" has the meaning ascribed to it in NRS 433A.018.***

Sec. 2.5. ***"Psychiatric care" means the provision of psychiatric services and psychiatric treatment and the administration of psychotropic medication.***

Sec. 2.7. ***The provisions of NRS 432B.197 and sections 2 to 6, inclusive, of this act, do not relieve an agency which provides child welfare services of any responsibility of the agency relating to the general health and well-being of a child in the custody of the agency.***

Sec. 3. ***1. If a child who is in the custody of an agency which provides child welfare services has a prescription for a psychotropic medication upon entering the custody of the agency or if the agency determines that a child may be in need of ~~[mental health]~~ psychiatric care,***

the agency shall nominate, pending appointment by a court pursuant to section 7 of this act, a person who is legally responsible for the ~~[health]~~ psychiatric care of the child. A person nominated pursuant to this subsection shall be deemed to be the person who is legally responsible for the ~~[health]~~ psychiatric care of the child pending approval by a court pursuant to section 7 of this act.

2. Upon nominating a person who is legally responsible for the ~~[health]~~ psychiatric care of a child pursuant to this section, the agency which provides child welfare services shall petition the court with jurisdiction over the child for the appointment of the nominee as the person who is legally responsible for the ~~[health]~~ psychiatric care of the child. A petition filed pursuant to this subsection may be heard by the court at the next hearing of the court conducted pursuant to NRS 432B.410 to 432B.590, inclusive, and section 7 of this act or at a hearing for the express purpose of appointing a person pursuant to section 7 of this act.

3. ~~[A]~~ The person who is legally responsible for the ~~[health]~~ psychiatric care of a child may be ~~[:~~

~~(a) A]~~ a parent or legal guardian of the child ~~[;~~

~~(b)]~~ or, if a parent or legal guardian of the child is not able or willing to act as the person who is legally responsible for the psychiatric care of the child:

(a) The attorney for the child;

~~[(c)]~~ (b) The guardian ad litem of the child;

~~[(d)]~~ (c) The foster parent or other provider of substitute care for the child; ~~[or~~

~~(e)]~~ (d) An employee of the agency which provides child welfare services; or

(e) Any other person who a court determines is qualified to carry out the duties and responsibilities prescribed by NRS 432B.197 and sections 2 to 6, inclusive, of this act and any policies adopted pursuant thereto,

➥ who is appointed by a court pursuant to NRS 432B.410 to 432B.590, inclusive, and section 7 of this act.

Sec. 4. *1. A person who is legally responsible for the ~~[health]~~ psychiatric care of a child who is in the custody of an agency which provides child welfare services is responsible for the procurement and oversight of all ~~[medical and]~~ psychiatric care for the child and shall make all decisions relating to the ~~[mental health]~~ psychiatric care and related treatment of the child, including, without limitation, the approval of all psychiatric services, psychiatric treatment and psychotropic medication that may be administered to the child.*

2. A person who is appointed to be legally responsible for the ~~[health]~~ psychiatric care of a child shall:

(a) To the extent that such information is available, maintain current information concerning the medical history of the child, including, without limitation:

(1) All known allergies of the child;

(2) Past and current illnesses and treatments of the child;

(3) Past and current psychiatric history and treatments of the child;

(4) Past and current psychiatric history of the family of the child; and

(5) Any other information which is necessary to make decisions relating to the medical treatment of the child.

(b) Maintain current information concerning the emotional, behavioral, educational and related needs of the child.

(c) Attend each visit of the child to receive ~~[mental health]~~ psychiatric care or be available by telephone to discuss the visit with the person professionally qualified in the field of psychiatric mental health who treats the child.

3. Except as otherwise provided in this subsection, a person who is legally responsible for the ~~[health]~~ psychiatric care of a child shall provide written consent or , in writing, deny consent for each visit of the child with a person professionally qualified in the field of psychiatric mental health who treats the child. Written consent is not required for each visit if the visit is part of the routine care of the child and the written consent approves such routine care. Written consent for routine care may be revoked at any time.

4. Written consent provided pursuant to subsection 3 must include, without limitation:

(a) The name and address of the person with whom the child currently resides or the name and location of the agency which provides child welfare services where the child currently resides;

(b) The name of the person who is legally responsible for the ~~[health]~~ psychiatric care of the child;

(c) The name of the person professionally qualified in the field of psychiatric mental health who treats the child;

(d) The date, time and location of the visit or, if the consent is for routine visits, the frequency and duration of the routine visits; and

(e) If the person who is legally responsible for the ~~[health]~~ psychiatric care of the child does not attend a visit, a written statement that the person is aware of and is available to discuss the visit and the treatment recommended for the child with the person professionally qualified in the field of psychiatric mental health.

5. A person who is legally responsible for the psychiatric care of a child shall, not less than 1 week before each visit of the child with a person professionally qualified in the field of psychiatric mental health who treats the child, notify:

(a) The agency which provides child welfare services that has custody of the child; and

(b) If the person is not the parent or legal guardian of the child, the parent or legal guardian,

↪ of the date, time and location of each visit of the child with a person professionally qualified in the field of psychiatric mental health who treats the child. Unless a court order prohibits such visitation, a parent or legal guardian of the child may attend each visit of the child with a person professionally qualified in the field of psychiatric mental health who treats the child.

Sec. 5. *1. A person who is legally responsible for the ~~[health]~~ psychiatric care of a child who is in the custody of an agency which provides child welfare services shall approve or deny the administration of a psychotropic medication to the child:*

(a) After considering the purpose, benefits, risks, alternatives, side effects and complications of each psychotropic medication recommended by the person professionally qualified in the field of psychiatric mental health who treats the child;

(b) After considering any additional information provided by the person professionally qualified in the field of psychiatric mental health who treats the child; ~~[and]~~

(c) After considering the possible clinical indications to suspend or terminate the psychotropic medication and the potential consequences of such an action; and

(d) In accordance with the policies adopted by the agency which provides child welfare services pursuant to NRS 432B.197.

2. If a person who is legally responsible for the ~~[health]~~ psychiatric care of a child:

(a) Approves the administration of a psychotropic medication to the child, the person shall provide written consent to the person professionally qualified in the field of psychiatric mental health, the agency which provides child welfare services and the foster parent or other provider of substitute care for the child for the administration of the psychotropic medication. The written consent must include:

(1) The name of the child;

(2) The name, address and telephone number of the person who is legally responsible for the ~~[health]~~ psychiatric care of the child;

(3) The name, purpose and expected time frame for improvement for each medication;

(4) The dosage, times of administration and, if applicable, the number of units at each administration of the medication which may be administered to the child;

(5) The duration of the course of treatment for the administration of the medication;

(6) A description of the possible risks, side effects interactions with other medications or foods, and complications of the medication; and

(7) If applicable, the specific authorization required by subsection 4.

(b) Denies the administration of a psychotropic medication to the child, the person shall provide written notice of the denial to the agency which provides child welfare services.

3. ~~[The]~~ Except as otherwise provided in section 5.5 of this act, the foster parent or other provider of substitute care for a child in the custody of an agency which provides child welfare services shall not administer a psychotropic medication to the child unless:

(a) The person who is legally responsible for the ~~[health]~~ psychiatric care of the child has consented to the administration of the medication; and

(b) The psychotropic medication is administered in accordance with the consent of the person who is legally responsible for the ~~[health]~~ psychiatric care of the child.

4. The person who is legally responsible for the ~~[health]~~ psychiatric care of a child must, in addition to providing written consent for the administration of a psychotropic medication, specifically approve:

(a) The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

(b) The prescribing of any psychotropic medication for use by a child who is less than 4 years of age;

(c) The concurrent use by a child of three or more classes of psychotropic medication; and

(d) The concurrent use by a child of two psychotropic medications of the same class.

Sec. 5.5. 1. An agency which provides child welfare services may allow the administration of, and a foster parent or other provider of substitute care for a child in the custody of an agency which provides child welfare services may administer, a psychotropic medication to a child without obtaining consent from a person who is legally responsible for the psychiatric care of the child if:

(a) The child has a prescription for a psychotropic medication upon entering the custody of the agency and the agency continues administering the psychotropic medication in accordance with that prescription; or

(b) A physician determines that an emergency exists which requires the immediate administration of a psychotropic medication before consent may be obtained from the person who is legally responsible for the psychiatric care of the child. The agency which provides child welfare services shall obtain documentation, which may include an incident report or other documentation which demonstrates that an emergency existed, regarding the circumstances surrounding the administration of the psychotropic medication.

2. If a psychotropic medication is administered pursuant to this section, the agency which provides child welfare services shall take reasonable efforts, as soon as practicable, to notify the parent or legal guardian of the child and the person who is legally responsible for the psychiatric care of the child of the administration of the psychotropic medication.

Sec. 6. ~~*[A person who is legally responsible for the health care of a child in the custody of an agency which provides child welfare services:*~~

~~*1. Shall exercise reasonable care in carrying out his or her duties and responsibilities pursuant to NRS 432B.197 and sections 2 to 6, inclusive, of this act and any policies adopted pursuant thereto.*~~

~~*2. Is liable for any injury or damage which is caused or sustained by the child as a result of the negligence of the person in carrying out his or her duties and responsibilities pursuant to NRS 432B.197 and sections 2 to 6, inclusive, of this act and any policies adopted pursuant thereto, including, without limitation, any criminal or civil liability to which a parent or legal guardian of the child would be subject relating to the health care of the child.]*~~ **(Deleted by amendment.)**

Sec. 7. ***If proceedings pursuant to this chapter involve the protection of a child who requires*** ~~*[mental health]*~~ ***psychiatric care, including, without limitation, any child who is administered a psychotropic medication, the court shall appoint the parent or legal guardian of the child as the person who is legally responsible for the*** ~~*[health]*~~ ***psychiatric care of the child*** ~~*[.]*~~ ***or, if a parent or legal guardian of the child is not able or willing to act as the person who is legally responsible for the psychiatric care of the child:***

1. The person nominated by the agency which provides child welfare services pursuant to section 3 of this act; or

2. Any other person who the court determines is qualified to carry out the duties and responsibilities of a person who is legally responsible for the ~~*[health]*~~ ***psychiatric care of the child.***

Sec. 8. NRS 432B.190 is hereby amended to read as follows:

432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

(a) Child welfare services provided in this State;

(b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;

(c) The development of local councils involving public and private organizations;

(d) Reports of abuse or neglect, records of these reports and the response to these reports;

(e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide child welfare services enter into agreements to provide services to children and families;

(f) The management and assessment of reported cases of abuse or neglect;

(g) The protection of the legal rights of parents and children;

(h) Emergency shelter for a child;

(i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;

(j) Developing and distributing to persons who are responsible for a child's welfare a pamphlet that is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and sets forth:

(1) Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;

(2) The procedures for taking a child for placement in protective custody; and

(3) The state and federal legal rights of:

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services makes initial contact with the person in the course of the investigation and at the time the agency takes the child for placement in protective custody, and the legal right of such a person to be informed of any allegation of abuse or neglect of a child which is made against the person at the initial time of contact with the person by the agency; and

(II) Persons who are parties to a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, ***and section 7 of this act*** during all stages of the proceeding; and

(k) Making the necessary inquiries required pursuant to NRS 432B.397 to determine whether a child is an Indian child.

2. Regulations, which are applicable to any person who is authorized to place a child in protective custody without the consent of the person responsible for the child's welfare, setting forth reasonable and uniform standards for establishing whether immediate action is necessary to protect the child from injury, abuse or neglect for the purposes of determining whether to place the child into protective custody pursuant to NRS 432B.390. Such standards must consider the potential harm to the child in remaining in his or her home, including, without limitation:

(a) Circumstances in which a threat of harm suggests that a child is in imminent danger of serious harm.

(b) The conditions or behaviors of the child's family which threaten the safety of the child who is unable to protect himself or herself and who is dependent on others for protection, including, without limitation, conditions

or behaviors that are beyond the control of the caregiver of the child and create an imminent threat of serious harm to the child.

➥ The Division of Child and Family Services shall ensure that the appropriate persons or entities to whom the regulations adopted pursuant to this subsection apply are provided with a copy of such regulations. As used in this subsection, "serious harm" includes the threat or evidence of serious physical injury, sexual abuse, significant pain or mental suffering, extreme fear or terror, extreme impairment or disability, death, substantial impairment or risk of substantial impairment to the child's mental or physical health or development.

3. Such other regulations as are necessary for the administration of NRS 432B.010 to 432B.606, inclusive ~~[.]~~ ***, and sections 2 to 7, inclusive, of this act.***

Sec. 9. NRS 432B.197 is hereby amended to read as follows:

432B.197 ***1.*** Each agency which provides child welfare services shall establish appropriate policies to ensure that children in the custody of the agency have timely access to ***and safe administration of*** clinically appropriate psychotropic medication. The policies must include, without limitation, policies concerning:

~~[1.]~~ ***(a)*** The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

~~[2.]~~ ***(b)*** Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

~~[3.]~~ ***(c)*** The concurrent use by a child of three or more classes of psychotropic medication; ~~[and~~

~~4.]~~ ***(d)*** The concurrent use by a child of two psychotropic medications of the same class ~~[.]~~ ***; and***

(e) The criteria for nominating persons who are legally responsible for the ~~[health]~~ psychiatric care of children in the custody of agencies which provide child welfare services pursuant to NRS 432B.197 and sections 2 to 6, inclusive, of this act and the policies adopted pursuant thereto.

2. ~~[An]~~ Except as otherwise provided in section 5.5 of this act, an agency which provides child welfare services shall not allow the administration of a psychotropic medication to a child in the custody of the agency unless:

(a) The person who is legally responsible for the ~~[health]~~ psychiatric care of the child has consented to the administration of the medication; and

(b) The psychotropic medication is administered in accordance with the consent of the person who is legally responsible for the ~~[health]~~ psychiatric care of the child.

3. An agency which provides child welfare services shall, at least quarterly, review the records for each child in the custody of the agency who is administered a psychotropic medication to determine whether the medication is being administered in accordance with NRS 432B.197 and sections 2 to 6, inclusive, of this act and the policies adopted pursuant thereto. The agency may use the results of the quarterly reviews to determine whether the placement of the child should be continued.

Sec. 10. NRS 432B.430 is hereby amended to read as follows:

432B.430 1. Except as otherwise provided in subsections 3 and 4 and NRS 432B.457, in each judicial district that includes a county whose population is 400,000 or more:

(a) Any proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, ***and section 7 of this act,*** other than a hearing held pursuant to subsections 1 to 4, inclusive, of NRS 432B.530 or a hearing held pursuant to subsection 5 of NRS 432B.530 when the court proceeds immediately, must be open to the general public unless the judge or master, upon his or her own motion or upon the motion of another person, determines that all or part of the proceeding must be closed to the general public because such closure is in the best interests of the child who is the subject of the proceeding. In determining whether closing all or part of the proceeding is in the best interests of the child who is the subject of the proceeding, the judge or master must consider and give due weight to the desires of that child.

(b) If the judge or master determines pursuant to paragraph (a) that all or part of a proceeding must be closed to the general public:

(1) The judge or master must make specific findings of fact to support such a determination; and

(2) The general public must be excluded and only those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

(c) Any proceeding held pursuant to subsections 1 to 4, inclusive, of NRS 432B.530 and any proceeding held pursuant to subsection 5 of NRS 432B.530 when the court proceeds immediately must be closed to the general public unless the judge or master, upon his or her own motion or upon the motion of another person, determines that all or part of the proceeding must be open to the general public because opening the proceeding in such a manner is in the best interests of the child who is the subject of the proceeding. In determining whether opening all or part of the proceeding is in the best interests of the child who is the subject of the proceeding, the judge or master must consider and give due weight to the desires of that child. If the judge or master determines pursuant to this paragraph that all or part of a proceeding must be open to the general public, the judge or master must make specific findings of fact to support such a determination. Unless the judge or master determines pursuant to this paragraph that all or part of a proceeding described in this paragraph must be open to the general public, the general public must be excluded and only

those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

2. Except as otherwise provided in subsections 3 and 4 and NRS 432B.457, in each judicial district that includes a county whose population is less than 400,000:

(a) Any proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, ***and section 7 of this act*** must be closed to the general public unless the judge or master, upon his or her own motion or upon the motion of another person, determines that all or part of the proceeding must be open to the general public because opening the proceeding in such a manner is in the best interests of the child who is the subject of the proceeding. In determining whether opening all or part of the proceeding is in the best interests of the child who is the subject of the proceeding, the judge or master shall consider and give due weight to the desires of that child.

(b) If the judge or master determines pursuant to paragraph (a) that all or part of a proceeding must be open to the general public, the judge or master must make specific findings of fact to support such a determination.

(c) Unless the judge or master determines pursuant to paragraph (a) that all or part of a proceeding must be open to the general public, the general public must be excluded and only those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

3. Except as otherwise provided in subsection 4 and NRS 432B.457, in a proceeding held pursuant to NRS 432B.470, the general public must be excluded and only those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

4. In conducting a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, ***and section 7 of this act,*** a judge or master shall keep information confidential to the extent necessary to obtain federal funds in the maximum amount available to this state.

Sec. 11. NRS 432B.4675 is hereby amended to read as follows:

432B.4675 Upon the entry of a final order by the court establishing a guardianship pursuant to NRS 432B.4665:

1. The custody of the child by the agency which has legal custody of the child is terminated;

2. The proceedings concerning the child conducted pursuant to NRS 432B.410 to 432B.590, inclusive, ***and section 7 of this act*** terminate; and

3. Unless subsequently ordered by the court to assist the court, the following agencies and persons are excused from any responsibility to participate in the guardianship case:

(a) The agency which has legal custody of the child; ~~[and]~~

(b) Any counsel or guardian ad litem appointed by the court to assist in the proceedings conducted pursuant to NRS 432B.410 to 432B.590, inclusive ~~[.]~~ ***, and section 7 of this act; and***

(c) Any person nominated or appointed as the person who is legally responsible for the ~~[health]~~ psychiatric care of the child pursuant to section 3 or 7 of this act, respectively.

Sec. 12. NRS 62A.380 is hereby amended to read as follows:

62A.380 1. In carrying out the objects and purposes of this title, the juvenile court may use the services and facilities of the agency which provides child welfare services.

2. The agency which provides child welfare services shall determine the plans, placements and services to be provided to any child pursuant to the provisions of this title, chapter 432 of NRS and NRS 432B.010 to 432B.400, inclusive ~~[.]~~ ***, and sections 2 to 6, inclusive, of this act.***

3. As used in this section, "agency which provides child welfare services" means:

(a) In a county whose population is less than 100,000, the local office of the Division of Child and Family Services; or

(b) In a county whose population is 100,000 or more, the agency of the county,

➥ which provides or arranges for necessary child welfare services.

Sec. 13. NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Establish appropriate policies to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the ~~[policies established pursuant to]~~ ***provisions of*** NRS 432B.197 ~~[.]~~ ***and sections 2 to 6, inclusive, of this act and the policies adopted pursuant thereto.***

2. The Administrator may:

(a) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children.

(b) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

3. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Director of the Department.

4. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

5. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

Sec. 14. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A provider of health care who is asked to provide ~~[mental health]~~ psychiatric care to a child who is in the custody of an agency which provides child welfare services shall not examine, treat or otherwise provide ~~[mental health]~~ psychiatric services to the child unless consent has been obtained from the person who is legally responsible for the ~~[health]~~ psychiatric care of the child pursuant to NRS 432B.197 and sections 2 to 6, inclusive, of this act and the policies adopted pursuant thereto.

2. A copy of the written consent required by section 4 of this act must be maintained in the health care record of the child.

Sec. 15. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by a specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, ***and section 14 of this act,*** the term includes a facility that maintains the health care records of patients.

Sec. 16. ~~[This act becomes effective on July 1, 2011.]~~ **(Deleted by amendment.)**

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

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

Senate Bill No. 371, as amended by Amendment No. 948, requires the nomination and appointment of a person legally responsible for the psychiatric care of a child in the custody of a child welfare agency. The person appointed as legally responsible for a child may be a parent or legal guardian, an attorney for the child, a guardian ad litem, a foster parent or provider of substitute care, an employee of the child welfare agency, or a person determined by the court to be qualified to carry out the duties prescribed in NRS 432B.

The person legally responsible for the psychiatric care of a child in the custody of a child welfare agency is responsible for the procurement and oversight of all psychiatric care for the child, including the approval of all psychiatric services, treatment and psychotropic medications administered to the child.

This bill becomes effective October 1, 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 427.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 949.

"SUMMARY—Provides for the merger ~~[of various]~~ **, movement and reorganization of certain** state agencies**.** ~~[into the Department of Administration.]~~ (BDR 18-1161)"

"AN ACT relating to state governmental administration; providing for the merger of various state agencies into the Department of Administration; creating new divisions of the Department of Administration; **creating the new Department of Tourism and Cultural Affairs;** providing for the dissolution of the **existing** Department of Cultural Affairs and ~~[several]~~ **the placement** of its constituent parts ~~[.]~~ **under the management of other departments; making certain appropriations;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides for: ~~[(1)]~~ the dissolution of the Department of Cultural Affairs ~~[, with the exception of the Division of State Library and Archives, the State Council on Libraries and Literacy and the State Historical Records Advisory Board, which are reorganized under the Department of Administration; (2) elimination of the Division of Museums and History, the Office of Historic Preservation, the Nevada Arts Council and the Commission for Cultural Affairs; (3)]~~ **and the distribution of the sub-parts of the Department of Cultural Affairs among: (1) the Department of Administration; (2) the State Department of Conservation and Natural Resources; and (3) the newly-formed Department of Tourism and Cultural Affairs. This bill also provides for the** elimination of the Department of Personnel and its replacement by a new division of the Department of Administration to be known as the Division of Human Resource Management; ~~[(4)]~~ **(1)** significant restriction of the powers and duties of the State Public Works Board, such that the Board will only be empowered to make recommendations concerning priority of construction, adopt regulations and preside over certain appeals; ~~[(5)]~~ **(2)** reclassification of the Buildings and Grounds Division of the Department of Administration as a section instead of a division; ~~[(6)]~~ **(3)** placement of both the State Public Works Board and the Buildings and Grounds Division under a new division of the Department of Administration to be known as the State Public Works Division; ~~[(7)]~~ **(4)** assumption of most of the powers and duties of the State Public Works Board by the State Public Works Division; and ~~[(8)]~~ **(5)** elimination of the Department of Information Technology and its replacement by a new division of the Department of Administration to be known as the Division of Enterprise Information Technology Services.

Section 96 of this bill directs the Legislative Counsel to appropriately change any references to an officer, agency or other entity whose name is changed, whose responsibilities are transferred or whose responsibilities are eliminated pursuant to the provisions of this bill. Because of **section ~~[96,]~~ 148,** necessary changes in references to entities affected by the bill may be

made during the process of codifying statutes and, thus, need not be shown repeatedly in the bill.

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

Section 1. **NRS 223.085 is hereby amended to read as follows:**

223.085 1. The Governor may, within the limits of available money, employ such persons as he or she deems necessary to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Science, Innovation and Technology and the Governor's mansion. Any such employees are not in the classified or unclassified service of the State and serve at the pleasure of the Governor.

2. The Governor shall:

(a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and

(b) Adopt such rules and policies as he or she deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1.

3. The Governor may:

(a) Appoint a Chief Information Officer of the State; and

(b) Designate the Administrator as the Chief Information Officer of the State.

➥ If the Administrator is so appointed, the Administrator shall serve as the Chief Information Officer of the State without additional compensation.

4. As used in this section, "Administrator" means the Administrator of the Division of Enterprise Information Technology Services of the Department of Administration.

Sec. 2. NRS 223.121 is hereby amended to read as follows:

223.121 1. The Director may, upon the election of each new Governor, enter into a contract with an artist for the purpose of procuring a portrait of that Governor for display in the Capitol Building.

2. The portrait must be painted in oil colors and appropriately framed. The painting and framing must be done in the same manner, style and size as the portraits of former Governors of the State displayed in the Capitol Building.

3. The contract price must not exceed the appropriation made for this purpose to the Account for the Governor's Portrait in the State General Fund. The contract price must include the cost of the portrait and the frame.

4. The portrait and frame are subject to the approval of the Governor.

5. Upon delivery of the approved, framed portrait to the Secretary of State and its acceptance by the Director, the State Controller shall draw his or her warrant in an amount equal to the contract price and the State Treasurer shall pay the warrant from the Account for the Governor's Portrait. Any balance remaining in the Account immediately lapses to the State General Fund.

6. As used in this section, "Director" means the Director of the Department of ***Tourism and*** **Cultural Affairs.** ~~*[Administration.]*~~

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 225.250 is hereby amended to read as follows:

225.250 1. The Advisory Committee shall:

(a) Advise the Director of the Department of **[**Cultural Affairs**]** ***Administration*** concerning the Repository and make recommendations to support greater use of the Repository and collection of materials for the Repository;

(b) Assist the Secretary of State in identifying and proposing programs that support participatory democracy and solutions to any problem concerning the level of participatory democracy, including, without limitation, proposing methods to involve the news media in the process of addressing and proposing solutions to such a problem;

(c) Make recommendations to and discuss recommendations with the Secretary of State concerning matters brought to the attention of the Advisory Committee that relate to a program, activity, event or any combination thereof designed to increase or facilitate participatory democracy, including, without limitation, the interaction of citizens with governing bodies in the formulation and implementation of public policy;

(d) Establish a "Jean Ford Democracy Award" to honor citizens who perform exemplary service in promoting participatory democracy in this State;

(e) Support projects by national, state and local entities that encourage and advance participatory democracy, including programs established by the National Conference of State Legislatures, the State Bar of Nevada, and other public and private organizations; and

(f) Advise the Secretary of State and the Governor concerning the substance of any proclamation issued by the Governor pursuant to NRS 236.035.

2. The Advisory Committee may establish a panel to assist the Advisory Committee in carrying out its duties and responsibilities. The panel may consist of:

(a) Representatives of organizations, associations, groups or other entities committed to improving participatory democracy in this State, including, without limitation, representatives of committees that are led by youths and established to improve the teaching of the principles of participatory democracy in the schools, colleges and universities of this State; and

(b) Any other interested persons with relevant knowledge.

Sec. 4. **Chapter 231 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 8.5, inclusive, of this act.**

Sec. 5. ***As used in NRS 231.160 to 231.360, inclusive, and sections 5 to 8.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 and 7 of this act have the meanings ascribed to them in those sections.***

Sec. 6. ***"Department" means the Department of Tourism and Cultural Affairs.***

Sec. 7. ***"Director" means the Director of the Department.***

Sec. 8. ***The creation of the Department does not affect any bequest, devise, endowment, trust, allotment or other gift made to a division or institution of the Department and those gifts inure to the benefit of the division or institution and remain subject to any conditions or restraints placed on the gifts.***

Sec. 8.5. ***1. The Director shall, from among employees in budgeted positions within the Division of Tourism and, in consultation with the Commission on Tourism, appoint an Administrator of the Division of Tourism. The Administrator must be appointed by the Director with special reference to the Administrator's training, experience, capacity and interest in tourism.***

2. The Administrator of the Division of Tourism must have:

(a) A bachelor's degree; and

(b) Completed course work and accumulated experience in the tourism sector with at least 5 years of progressively responsible work experience in the administration of tourism, at least 2 years of which must have been in a supervisory capacity.

3. Except as otherwise provided pursuant to subsection 4 of NRS 231.230, the Administrator of the Division of Tourism is in the unclassified service of the State.

4. The Administrator of the Division of Tourism may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of the Administrator's duties.

5. The Administrator of the Division of Tourism, in consultation with the Director, is responsible to the Director for the general administration of the Division of Tourism and for the submission of its budgets, subject to administrative supervision by the Director.

6. The Administrator of the Division of Tourism shall direct the work of the Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

7. To carry out the relevant provisions of NRS 231.160 to 231.360, inclusive, and sections 5 to 8.5, inclusive, of this act, and within the limit of money available to him or her, the Administrator of the Division of Tourism may enter into contracts and other lawful agreements with:

(a) Natural persons, organizations and institutions for services furthering the mission and goals of the Division of Tourism and the Commission on Tourism; and

(b) Local, regional and national associations for cooperative endeavors furthering the mission and goals of the programs of the Division of Tourism.

8. The Administrator of the Division of Tourism may accept gifts, contributions and bequests of unrestricted money from natural persons,

foundations, corporations and other organizations and institutions to further the mission and goals of the programs of the Division.

Sec. 9. **NRS 231.015 is hereby amended to read as follows:**

231.015 1. The Interagency Committee for Coordinating Tourism and Economic Development is hereby created. The Committee consists of the Governor, who is its Chair, the Lieutenant Governor, who is its Vice Chair, the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[,]~~ ***and Cultural Affairs,*** the Executive Director of the Commission on Economic Development and such other members as the Governor may from time to time appoint. The appointed members of the Committee serve at the pleasure of the Governor.

2. The Committee shall meet at the call of the Governor.

3. The Committee shall:

(a) Identify the strengths and weaknesses in state and local governmental agencies which enhance or diminish the possibilities of tourism and economic development in this State.

(b) Foster coordination and cooperation among state and local governmental agencies, and enlist the cooperation and assistance of federal agencies, in carrying out the policies and programs of the ~~[Commission on]~~ ***Department of*** Tourism ***and Cultural Affairs*** and the Commission on Economic Development.

(c) Formulate cooperative agreements between the ~~[Commission on]~~ ***Department of*** Tourism ***and Cultural Affairs*** or the Commission on Economic Development, and state and other public agencies pursuant to the Interlocal Cooperation Act, so that ~~[each of those commissions]~~ ***the Department and Commission*** may receive applications from and, as appropriate, give governmental approval for necessary permits and licenses to persons who wish to promote tourism, develop industry or produce motion pictures in this State.

4. The Governor may from time to time establish regional or local subcommittees to work on regional or local problems of economic development or the promotion of tourism.

Sec. 10. **NRS 231.160 is hereby amended to read as follows:**

231.160 ~~[There is hereby created a Commission on]~~ ***The Department of*** Tourism ~~[,]~~ ***and Cultural Affairs is hereby created,*** consisting of:

1. ~~[A]~~ ***The*** Division of Tourism; ~~[and~~

~~2. A Division of Publications, including Nevada Magazine.]~~

2. The Division of Museums and History, created by NRS 381.004;

3. The Board of Museums and History, created by NRS 381.002;

4. The Nevada Arts Council, created by NRS 233C.025;

5. The Nevada Indian Commission, created by NRS 233A.020;

6. The Board of the Nevada Arts Council, created by NRS 233C.030;

7. The Commission on Tourism; and

8. The Commission for Cultural Affairs, created by NRS 233C.200.

Sec. 11. **NRS 231.200 is hereby amended to read as follows:**

231.200 ~~[The]~~ ***Except as otherwise provided in section 8.5 of this act, the*** Commission on Tourism:

1. Shall establish the policies and approve the programs and budgets of the Division of Tourism ~~[and Division of Publications]~~ concerning:

(a) The promotion of tourism and travel in this State; and

(b) The publication of Nevada Magazine and other promotional material.

2. May adopt regulations to administer and carry out the policies and programs of ~~[those divisions.]~~ ***the Division of Tourism.***

3. May from time to time create special advisory committees to advise it on special problems of tourism. Members of special advisory committees, other than members of the Commission, may be paid the per diem allowance and travel expenses provided for state officers and employees, as the budget of the Commission permits.

Sec. 12. **NRS 231.210 is hereby amended to read as follows:**

231.210 The Director ***:*** ~~[of the Commission on Tourism:]~~

1. Must be appointed by the Governor from a list of three persons submitted to the Governor by the ***Lieutenant Governor from recommendations made to the Lieutenant Governor by the:***

(a) Members of the Commission ~~[,]~~ ***on Tourism;***

(b) Chair of the Commission for Cultural Affairs;

(c) Chair of the Board of Museums and History;

(d) Chair of the Nevada Indian Commission; and

(e) Chair of the Board of the Nevada Arts Council.

2. ~~[Is responsible to the Commission and serves at its pleasure.~~

~~3.]~~ Shall, except as otherwise provided in NRS 284.143, devote his or her entire time to the duties of his or her office and shall not follow any other gainful employment or occupation.

Sec. 13. **NRS 231.220 is hereby amended to read as follows:**

231.220 The Director ~~[of the Commission on Tourism]~~ shall direct and supervise all ~~[its]~~ administrative and technical activities ~~[,]~~ ***of the Department,*** including coordinating its plans for tourism ***,*** ~~[and]~~ publications ~~[, scheduling its programs,]~~ ***and cultural affairs,*** analyzing the effectiveness of those programs and associated expenditures, and cooperating with other governmental agencies which have programs related to travel ***,*** ~~[and]~~ tourism ~~[.]~~ ***and cultural affairs.*** In addition to other powers and duties, the Director:

1. Shall attend all ***appropriate*** meetings of the ~~[Commission]~~ ***Department*** and ***appoint a staff member to*** act as ~~[its]~~ Secretary, keeping minutes and audio recordings or transcripts of ~~[its]~~ ***all appropriate*** proceedings.

2. Shall report regularly to the ~~[Commission]~~ ***commissions, divisions and council of the Department*** concerning the administration of ~~[its]~~ ***the*** policies and programs. ~~[;~~

~~3. Shall serve as the Director of the Division of Tourism.~~

~~4. Shall appoint the Administrator of the Division of Publications.~~

~~5.]~~ ***of the Department.***

3. May perform any other lawful acts which he or she considers necessary to carry out the provisions of NRS 231.160 to 231.360, inclusive ~~[.]~~ ***, and sections 5 to 8.5, inclusive, of this act.***

Sec. 14. **NRS 231.230 is hereby amended to read as follows:**

231.230 1. The ~~[Commission on Tourism]~~ ***Department*** through ~~[its]~~ ***the*** Director may:

(a) Employ such professional, technical, clerical and operational employees as the operation of the ~~[Commission]~~ ***Department*** may require; and

(b) Employ such experts, researchers and consultants and enter into such contracts with any public or private entities as may be necessary to carry out the provisions of NRS 231.160 to 231.360, inclusive ~~[.]~~ ***and sections 5 to 8.5, inclusive, of this act.***

2. The Director ~~[and all other nonclerical employees of the Commission are]~~ ***is*** in the unclassified service of the State.

3. ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** clerical employees of the ~~[Commission]~~ ***Department*** are in the classified service of the State.

4. The Director may appoint to the Department employees in either the classified or unclassified service of the State, in accordance with the historical manner of categorization, unless state or federal law or regulation requires otherwise.

Sec. 15. **NRS 231.240 is hereby amended to read as follows:**

231.240 1. The Director ~~[of the Commission on Tourism]~~ may charge reasonable fees for materials prepared for distribution.

2. All such fees must be deposited with the State Treasurer for credit to the ~~[Commission.]~~ ***Department.*** The fees must first be expended exclusively for materials and labor incident to preparing and printing those materials for distribution. Any remaining fees may be expended, in addition to any other money appropriated, for the support of the ~~[Commission.]~~ ***Department.***

Sec. 16. **NRS 231.250 is hereby amended to read as follows:**

231.250 The Fund for the Promotion of Tourism is hereby created as a special revenue Fund. The money in the Fund is hereby appropriated for the support of the ~~[Commission on Tourism.]~~ ***Department***.

Sec. 17. **NRS 231.260 is hereby amended to read as follows:**

231.260 The ~~[Commission on Tourism,]~~ ***Department,*** through ~~[its]~~ ***the*** Division of Tourism, shall:

1. Promote this State so as to increase the number of domestic and international tourists.

2. Promote special events ***and exhibitions*** which are designed to increase tourism.

3. Develop a State Plan to Promote Travel and Tourism in Nevada.

4. Develop a comprehensive program of marketing and advertising, for both domestic and international markets, which publicizes travel and tourism in Nevada in order to attract more visitors to this State or lengthen their stay.

5. Provide and administer grants of money or matching grants to political subdivisions of the State, to fair and recreation boards, and to local or regional organizations which promote travel and tourism, to assist them in:

(a) Developing local programs for marketing and advertising which are consistent with the State Plan.

(b) Promoting specific events and attractions in their communities.

(c) Evaluating the effectiveness of the local programs and events.

➥ Each recipient must provide an amount of money, at least equal to the grant, for the same purpose, except, in a county whose population is less than ~~[~~50,000,~~]~~ ***100,000,*** the ~~[~~Commission~~]~~ ***Division*** may, if convinced that the recipient is financially unable to do so, provide a grant with less than equal matching money provided by the recipient.

6. Coordinate and assist the programs of travel and tourism of counties, cities, local and regional organizations for travel and tourism, fair and recreation boards and transportation authorities in the State. Local governmental agencies which promote travel and tourism shall coordinate their promotional programs with those of the ~~[~~Commission.~~]~~ ***Division.***

7. Encourage cooperation between public agencies and private persons who have an interest in promoting travel and tourism in Nevada.

8. Compile or obtain by contract, keep current and disseminate statistics and other marketing information on travel and tourism in Nevada.

9. Prepare and publish ~~[~~, with the assistance of the Division of Publications,~~]~~ brochures, travel guides, directories and other materials which promote travel and tourism in Nevada.

10. Publish or cause to be published a magazine to be known as the Nevada Magazine. The Nevada Magazine must contain materials which educate the general public about this State and thereby foster awareness and appreciation of Nevada's heritage, culture, historical monuments, natural wonders and natural resources.

Sec. 18. **NRS 231.270 is hereby amended to read as follows:**

231.270 In addition to its other duties, the ~~[~~Commission on Tourism through its~~]~~ Division of Tourism may:

1. Form a statewide council or regional councils on tourism, whose members include representatives from businesses, trade associations and governmental agencies, to provide for exchange of information and coordination of programs on travel and tourism.

2. Produce or cooperate in the production of promotional films which are suitable for broadcasting on television and presenting to organizations involved in travel or tourism.

3. Establish an office or offices which, by brochure, telephone, press release, videotape and other means, disseminate information on cultural, sporting, recreational and other special events, activities and facilities in the different parts of the State which will attract tourists from ***inside or*** outside the State.

Sec. 19. **NRS 231.300 is hereby amended to read as follows:**

231.300 In performing ~~[their]~~ ***his or her*** duties, the Director ~~[of the Commission on Tourism and the Administrator of the Division of Publications]~~ shall not interfere with the functions of any other state agencies, but those agencies shall, from time to time, on reasonable request, furnish the Director ~~[and Administrator]~~ with data and other information from their records bearing on the objectives of the ~~[Commission and its divisions.]~~ ***Department.*** The Director ~~[and Administrator]~~ shall avail ~~[themselves]~~ ***himself or herself*** of records and assistance of such other state agencies as might make a contribution to the work of the ~~[Commission.]~~ ***Department.***

Sec. 20. **NRS 231.320 is hereby amended to read as follows:**

231.320 ~~["Committee"]~~ ***"Commission"*** means the ~~[Committee for the Development of Projects Relating to]~~ ***Commission on*** Tourism created by NRS ~~[231.350.]~~ ***231.170.***

Sec. 21. **NRS 231.340 is hereby amended to read as follows:**

231.340 "Grant Program" means the Grant Program administered by the ~~[Committee for the Development of Projects Relating to Tourism.]~~ ***Commission.***

Sec. 22. **NRS 231.360 is hereby amended to read as follows:**

231.360 1. The ~~[Committee]~~ ***Commission*** may provide grants of money to counties, cities, and local and regional organizations in this State for the development of projects relating to tourism to the extent that:

(a) Money in the Fund for the Promotion of Tourism created by NRS 231.250 is made available for that purpose. ~~[Not more than $200,000]~~ ***The amount*** of revenue from taxes on the gross receipts from the rental of transient lodging ~~[may be]~~ made available for that purpose in any biennium ~~[.]~~ ***must be determined through the budget process and approved by the Legislature.***

(b) Gifts, grants or other money is made available for that purpose.

2. Except as otherwise provided in this subsection, the State Controller shall, upon the request of the ~~[Committee,]~~ ***Commission,*** transfer to the State General Fund all money made available for the use of the ~~[Committee]~~ ***Commission*** pursuant to subsection 1. All such money must be accounted for separately in the State General Fund. The State Controller shall not transfer any revenue from taxes on the gross receipts from the rental of transient lodging from the Fund for the Promotion of Tourism to the State General Fund unless the transfer is approved by the Interim Finance Committee.

3. The ~~[Committee]~~ ***Commission*** shall administer the account created pursuant to subsection 2 and may make grants only from that account. Any interest earned on the money in the account must be credited to the account quarterly. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.

4. The ~~[Committee]~~ ***Commission*** shall:

(a) Develop and administer the Grant Program for the Development of Projects Relating to Tourism;

(b) Establish guidelines for the submission and review of applications to receive money from the Grant Program;

(c) Establish the criteria for eligibility to receive money from the Grant Program; and

(d) Consider and approve or disapprove applications for money from the Grant Program.

5. Except as otherwise provided in subsection 6, as a condition of eligibility for a grant from the ~~[Committee]~~ ***Commission*** pursuant to this section, an applicant must provide an amount of money, at least equal to the amount of the grant, for the same purpose.

6. If an applicant for a grant is from a county whose population is less than 100,000 and the ~~[Committee]~~ ***Commission*** determines that the applicant is financially unable to provide the matching money otherwise required by subsection 5, the ~~[Committee]~~ ***Commission*** may provide a grant with less than equal matching money provided by the applicant.

Sec. 23. **NRS 232.090 is hereby amended to read as follows:**

232.090 1. The Department consists of the Director and the following ***:*** ~~[divisions:]~~

(a) The Division of Water Resources.

(b) The Division of State Lands.

(c) The Division of Forestry.

(d) The Division of State Parks.

(e) The Division of Conservation Districts.

(f) The Division of Environmental Protection.

(g) ***The Office of Historic Preservation.***

(h) Such other divisions as the Director may from time to time establish.

2. The State Environmental Commission, the State Conservation Commission, the Commission for the Preservation of Wild Horses, the Nevada Natural Heritage Program and the Board to Review Claims are within the Department.

~~[Sec. 3.]~~ ***Sec. 24.*** NRS 232.213 is hereby amended to read as follows:

232.213 1. The Department of Administration is hereby created.

2. The Department consists of a Director and the following divisions:

(a) Budget Division.

(b) Risk Management Division.

(c) Hearings Division, which consists of hearing officers, compensation officers and appeals officers.

(d) ~~[Buildings and Grounds]~~ ***State Public Works*** Division.

(e) Purchasing Division.

(f) Administrative Services Division.

(g) Division of Internal Audits.

(h) Division of Human Resource Management.

(i) Division of Enterprise Information Technology Services.

(j) Division of State Library and Archives.

3. The Director may establish a Motor Pool Division or may assign the functions of the State Motor Pool to one of the other divisions of the Department.

~~[Sec. 4.]~~ ***Sec. 25.*** NRS 232.215 is hereby amended to read as follows:

232.215 The Director:

1. Shall appoint ~~[a Chief]~~ ***an Administrator*** of the:

(a) Risk Management Division;

(b) ~~[Buildings and Grounds]~~ ***State Public Works*** Division;

(c) Purchasing Division;

(d) Administrative Services Division;

(e) Division of Internal Audits; ~~[and]~~

(f) ***Division of Human Resource Management;***

(g) Division of Enterprise Information Technology Services;

(h) Division of State Library and Archives; and

(i) Motor Pool Division, if separately established.

2. Shall appoint a Chief of the Budget Division, or may serve in this position if the Director has the qualifications required by NRS 353.175.

3. Shall serve as Chief of the Hearings Division and shall appoint the hearing officers and compensation officers. The Director may designate one of the appeals officers in the Division to supervise the administrative, technical and procedural activities of the Division.

4. Is responsible for the administration, through the divisions of the Department, of the provisions of chapters ***233F, 242, 284,*** 331, 333 ***,*** ~~[and]~~ 336 ***, 338, 341 and 378*** of NRS, NRS 353.150 to 353.246, inclusive, and 353A.031 to 353A.100, inclusive, and all other provisions of law relating to the functions of the divisions of the Department.

5. Is responsible for the administration of the laws of this State relating to the negotiation and procurement of medical services and other benefits for state agencies.

6. Has such other powers and duties as are provided by law.

~~[Sec. 5.]~~ ***Sec. 26.*** NRS 232.2165 is hereby amended to read as follows:

232.2165 ~~[1.]~~ The ~~[Chief]~~ ***Administrator*** of:

~~[(a) The Buildings and Grounds]~~

1. The State Public Works Division;

~~[(b)]~~ ***2.*** The Purchasing Division;

~~[(c)]~~ ***3.*** The Administrative Services Division;

~~[(d)]~~ ***4.*** The Division of Internal Audits; ~~[and~~

~~(e)]~~ ***5. The Division of Human Resource Management;***

6. The Division of Enterprise Information Technology Services;

7. The Division of State Library and Archives; and

8. If separately established, the Motor Pool Division,

➥ of the Department serves at the pleasure of the Director ~~[, but, except as otherwise provided in subsection 2, for all purposes except removal is in the classified]~~ ***and is in the unclassified*** service of the State.

~~[2. The Chief of the Motor Pool Division, if separately established, and the Chief of the Division of Internal Audits are in the unclassified service of the State.]~~

~~[Sec. 6.]~~ ***Sec. 27.*** NRS 232.217 is hereby amended to read as follows:

232.217 Unless federal law or regulation otherwise requires, the Chief of the ~~[:~~

~~1.]~~ Budget Division ~~[;~~

~~2.]~~ ~~Buildings and Grounds]~~ ***and the Administrator of the:***

1. State Public Works Division;

~~[3.]~~ ***2.*** Purchasing Division;

~~[4.]~~ ***3.*** Division of Internal Audits; ~~[and]~~

~~[5.]~~ ***4. Division of Human Resource Management;***

~~[6.]~~ ***5. Division of Enterprise Information Technology Services;***

~~[7.]~~ ***6. Division of State Library and Archives; and***

~~[8.]~~ ***7.*** Motor Pool Division, if separately established,

➥ may appoint a Deputy and a Chief Assistant in the unclassified service of the State, who shall not engage in any other gainful employment or occupation except as otherwise provided in NRS 284.143.

~~[Sec. 7.]~~ ***Sec. 28.*** NRS 232.219 is hereby amended to read as follows:

232.219 1. The Department of Administration's Operating Fund for Administrative Services is hereby created as an internal service fund.

2. The operating budget of each of the following entities must include an amount representing that entity's share of the operating costs of the central accounting function of the Department:

(a) State Public Works ~~[Board;]~~ ***Division;***

(b) Budget Division;

(c) ~~[Buildings and Grounds Division;~~

~~(d)]~~ Purchasing Division;

~~[(e)]~~ ***(d)*** Hearings Division;

~~[(f)]~~ ***(e)*** Risk Management Division;

~~[(g)]~~ ***(f)*** Division of Internal Audits; ~~[and~~

~~(h)]~~ ***(g) Division of Human Resource Management;***

(h) Division of Enterprise Information Technology Services;

(i) Division of State Library and Archives; and

(j) If separately established, the Motor Pool Division.

3. All money received for the central accounting services of the Department must be deposited in the State Treasury for credit to the Operating Fund.

4. All expenses of the central accounting function of the Department must be paid from the Fund as other claims against the State are paid.

Sec. 29. **NRS 233C.017 is hereby amended to read as follows:**

233C.017 "Department" means the Department of ***Tourism and*** Cultural Affairs.

Sec. 30. **NRS 233C.091 is hereby amended to read as follows:**

233C.091 1. The Administrator is appointed by the Director with special reference to the Administrator's training, experience, capacity and interest in the arts. ***The Director shall consult with the Board before making the appointment.***

2. The Administrator must have:

(a) A degree in the arts, a field related to the arts or public administration; and

(b) Completed course work and accumulated experience in at least one of the arts with at least 5 years of progressively responsible work experience in the administration of arts and cultural programming, at least 2 years of which must have been in a supervisory capacity.

3. The Administrator may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of the Administrator's duties.

4. The Administrator is responsible to the Director for the general administration of the Division and for the submission of its budgets, subject to administrative supervision by the Director.

5. The Administrator shall direct the work of the Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

6. To carry out the provisions of this chapter and within the limit of money available to him or her, the Administrator may enter into contracts and other lawful agreements with:

(a) Natural persons, organizations and institutions for services furthering the mission and goals of the Division and the Board; and

(b) Local, regional and national associations for cooperative endeavors furthering the mission and goals of the programs of the Division.

7. The Administrator may accept gifts, contributions and bequests of unrestricted money from natural persons, foundations, corporations and other organizations and institutions to further the mission and goals of the programs of the Division.

8. ***Except as otherwise provided pursuant to subsection 4 of NRS 231.230, the Administrator is in the unclassified service of the State.***

9. As used in this section, "Director" means the Director of the Department.

~~[Sec. 8.]~~ ***Sec. 31.*** Chapter 233F of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[9]~~ **32** and ~~[10]~~ **33** of this act.

~~[Sec. 9.]~~ ***Sec. 32.*** ~~["Chief Information Officer"]~~ ***"Administrator" means the*** ~~*[Chief Information Officer]*~~ ***Administrator of the Division.***

~~[Sec. 10.]~~ ***Sec. 33. "Division" means the Division of Enterprise Information Technology Services of the Department.***

~~[Sec. 11.]~~ ***Sec. 34.*** NRS 233F.010 is hereby amended to read as follows:

233F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 233F.020 to 233F.065, inclusive, ***and sections*** ~~*[9]*~~ ***32 and*** ~~*[10]*~~ ***33 of this act*** have the meanings ascribed to them in those sections.

~~[Sec. 12.]~~ ***Sec. 35.*** NRS 233F.045 is hereby amended to read as follows:

233F.045 "Communications Unit" means the Communications Unit of the Communication and Computing ~~[Division]~~ ***Unit*** of the ~~[Department.]~~ ***Division.***

~~[Sec. 13.]~~ ***Sec. 36.*** NRS 233F.055 is hereby amended to read as follows:

233F.055 "Department" means the Department of ~~[Information Technology.]~~ ***Administration.***

~~[Sec. 14.]~~ ***Sec. 37.*** NRS 233F.065 is hereby amended to read as follows:

233F.065 "Telecommunications Unit" means the Telecommunications Unit of the Communication and Computing ~~[Division]~~ ***Unit*** of the ~~[Department.]~~ ***Division.***

~~[Sec. 15.]~~ ***Sec. 38.*** NRS 233F.080 is hereby amended to read as follows:

233F.080 The Legislature finds and declares that a state communications system is vital to the security and welfare of the State during times of emergency and in the conduct of its regular business, and that economies may be realized by joint use of the system by all state agencies. It is the purpose of the Legislature that a state communications system be developed whereby the greatest efficiency in the joint use of existing communications systems is achieved and that all communication functions and activities of state agencies be coordinated. It is not the intent of the Legislature to remove from the ~~[Department of Information Technology]~~ ***Division*** control over the state telecommunications system intended for use by state agencies and the general public.

~~[Sec. 16.]~~ ***Sec. 39.*** NRS 233F.110 is hereby amended to read as follows:

233F.110 1. The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** may, upon receiving a request for a microwave channel or channels from an agency, approve or disapprove that request. If the request is approved, the ~~[Department]~~ ***Division*** shall assign a channel or channels to the agency at a cost which reflects the actual share of costs incurred for services provided to the agency, in accordance with the comprehensive system of equitable billing and charges developed by the coordinator of communications.

2. Except as otherwise provided in subsection 3, a microwave channel assigned by the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** to an

agency for its use must not be reassigned without the concurrence of the agency.

3. The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** may revoke the assignment of a microwave channel if an agency fails to pay for its use and may reassign that channel to another agency.

4. Equipment for microwave channels which is purchased by a using agency becomes the property of the ~~[Department]~~ ***Division*** if the agency fails to use or pay for those channels. The equipment must be used by the ~~[Department]~~ ***Division*** to replace old or obsolete equipment in the state communications system.

5. A state agency shall not purchase equipment for microwave stations without prior approval from the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** unless:

(a) The existing services do not meet the needs of the agency; or

(b) The equipment will not be used to duplicate services which are provided by the state communications system or a private company.

6. The ~~[Department]~~ ***Division*** shall reimburse an agency for buildings, facilities or equipment which is consolidated into the state communications system.

~~[Sec. 17.]~~ ***Sec. 40.*** NRS 233F.115 is hereby amended to read as follows:

233F.115 The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** shall designate at least one microwave channel of the state communications system for use by the fire services.

~~[Sec. 18.]~~ ***Sec. 41.*** NRS 218E.405 is hereby amended to read as follows:

218E.405 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, NRS 284.1729, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, ***paragraph (f) of*** subsection ~~[6]~~ ***1*** of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, 353.288, 353.335, 353C.226, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chair of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chair of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public

Works ~~[Board]~~ ***Division*** that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chair appoints such a subcommittee:

(a) The Chair shall designate one of the members of the subcommittee to serve as the chair of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chair of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or the Director's designee shall act as the nonvoting recording secretary of the subcommittee.

~~[Sec. 19.]~~ ***Sec. 42.*** NRS 235.012 is hereby amended to read as follows:

235.012 1. The Director, after consulting with the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[,]~~ ***and Cultural Affairs,*** **the Administrator of the Division of Museums and History of the Department of *Tourism and* Cultural Affairs** and the Administrator of the Division of Minerals of the Commission on Mineral Resources, may contract with a mint to produce medallions made of gold, silver, platinum or nonprecious metals and bars made of gold, silver or platinum.

2. The decision of the Director to award a contract to a particular mint must be based on the ability of the mint to:

(a) Provide a product of the highest quality;

(b) Advertise and market the product properly, including the promotion of museums and tourism in this State; and

(c) Comply with the requirements of the contract.

3. The Director shall award the contract to the lowest responsible bidder, except that if in his or her judgment no satisfactory bid has been received, the Director may reject all bids.

4. All bids for the contract must be solicited in the manner prescribed in NRS 333.310 and comply with the provisions of NRS 333.330.

Sec. 43. **NRS 235.014 is hereby amended to read as follows:**

235.014 1. The ore used to produce a medallion or bar must be mined in Nevada, if the ore is available. If it is not available, ore newly mined in the United States may be used. Each medallion or bar made of gold, silver or platinum must be 0.999 fine. Additional series of medallions made of gold, silver or platinum at degrees of fineness of 0.900 or greater may be approved by the Director with the concurrence of the Interim Finance Committee. The degree of fineness of the materials used must be clearly indicated on each medallion.

2. Medallions may be minted in weights of 1 ounce, 0.5 ounce, 0.25 ounce and 0.1 ounce.

3. Bars may be minted in weights of 1 ounce, 5 ounces, 10 ounces and 100 ounces.

4. Each medallion must bear on its obverse The Great Seal of the State of Nevada and on its reverse a design selected by the Director, in consultation with the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[,]~~ ***and***

Cultural Affairs, the Administrator of the Division of Museums and History of the Department of ***Tourism and*** Cultural Affairs and the Administrator of the Division of Minerals of the Commission on Mineral Resources.

~~[Sec. 20.]~~ ***Sec. 44.*** NRS 239.005 is hereby amended to read as follows:

239.005 As used in this chapter, unless the context otherwise requires:

1. "Actual cost" means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.

2. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.

3. "Division" means the Division of State Library and Archives of the Department of ~~[Cultural Affairs.]~~ ***Administration.***

4. "Governmental entity" means:

(a) An elected or appointed officer of this State or of a political subdivision of this State;

(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State or of a political subdivision of this State;

(c) A university foundation, as defined in NRS 396.405; or

(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools.

~~[Sec. 21.]~~ ***Sec. 45.*** NRS 239.073 is hereby amended to read as follows:

239.073 1. The Committee to Approve Schedules for the Retention and Disposition of Official State Records, consisting of six members, is hereby created.

2. The Committee consists of:

(a) The Secretary of State;

(b) The Attorney General;

(c) The Director of the Department of Administration;

(d) The State Library and Archives Administrator;

(e) The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator of the Division of Enterprise Information Technology Services*** of the Department of ~~[Information Technology;]~~ ***Administration;*** and

(f) One member who is a representative of the general public appointed by the Governor.

➥ All members of the Committee, except the representative of the general public, are ex officio members of the Committee.

3. The Secretary of State or a person designated by the Secretary of State shall serve as Chair of the Committee. The State Library and Archives Administrator shall serve as Secretary of the Committee and prepare and maintain the records of the Committee.

4. The Committee shall meet at least quarterly and may meet upon the call of the Chair.

5. An ex officio member of the Committee may designate a person to represent the ex officio member at any meeting of the Committee. The person designated may exercise all the duties, rights and privileges of the member that the person represents.

6. The Committee may adopt rules and regulations for its management.

~~[Sec. 22.]~~ ***Sec. 46.*** Chapter 242 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[23]~~ **47** and ~~[24]~~ **48** of this act.

~~[Sec. 23.]~~ ***Sec. 47.*** ~~*["Chief Information Officer"]*~~ ***"Administrator" means the*** ~~*[Chief Information Officer]*~~ ***Administrator of the Division.***

~~[Sec. 24.]~~ ***Sec. 48. "Division" means the Division of Enterprise Information Technology Services of the Department.***

~~[Sec. 25.]~~ ***Sec. 49.*** NRS 242.011 is hereby amended to read as follows:

242.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 242.015 to 242.068, inclusive, ***and sections*** ~~*[23]*~~ ***47 and*** ~~*[24]*~~ ***48 of this act*** have the meanings ascribed to them in those sections.

~~[Sec. 26.]~~ ***Sec. 50.*** NRS 242.031 is hereby amended to read as follows:

242.031 "Department" means the Department of ~~[Information Technology.]~~ ***Administration.***

~~[Sec. 27.]~~ ***Sec. 51.*** NRS 242.071 is hereby amended to read as follows:

242.071 1. The Legislature hereby determines and declares that the creation of the ***Division of Enterprise Information Technology Services of the*** Department of ~~[Information Technology]~~ ***Administration*** is necessary for the coordinated, orderly and economical processing of information in State Government, to ensure economical use of information systems and to prevent the unnecessary proliferation of equipment and personnel among the various state agencies.

2. The purposes of the ~~[Department]~~ ***Division*** are:

(a) To perform information services for state agencies.

(b) To provide technical advice but not administrative control of the information systems within the state agencies, county agencies and governing bodies and agencies of incorporated cities and towns.

~~[Sec. 28.]~~ ***Sec. 52.*** NRS 242.080 is hereby amended to read as follows:

242.080 1. The ***Division of Enterprise Information Technology Services of the*** Department ~~[of Information Technology]~~ is hereby created.

2. The ~~[Department]~~ ***Division*** consists of the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** and the:

(a) ~~[Programming Division.]~~ ***Enterprise Application Services Unit.***

(b) Communication and Computing ~~[Division.]~~ ***Unit.***

(c) Office of Information Security.

3. A Communications Unit and a Telecommunications Unit are hereby created within the Communication and Computing ~~[Division]~~ ***Unit*** of the ~~[Department.]~~ ***Division.***

~~[Sec. 29.]~~ ***Sec. 53.*** NRS 242.090 is hereby amended to read as follows:

242.090 1. The ~~[Governor]~~ ***Director of the Department*** shall appoint the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** in the unclassified service of the State. ~~[In selecting the]~~ ~~[Director,]~~ ~~*[Chief Information Officer, the]*~~ ~~[Governor]~~ ~~*[Director of the Department*~~ ~~shall consider recommendations of the *Division of Human Resource Management of the* Department]~~ ~~[of Personnel]~~ ~~[relating to minimum qualifications.]~~

2. The ~~[Director:]~~ ~~*[Chief Information Officer:]*~~ ***Administrator:***

(a) Serves at the pleasure of **,** ~~[the Governor]~~ and is responsible to **,** the ~~[Governor.]~~ ***Director of the Department.***

(b) Shall not engage in any other gainful employment or occupation.

~~[Sec. 30.]~~ ***Sec. 54.*** NRS 242.101 is hereby amended to read as follows:

242.101 1. The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** shall:

(a) Appoint the ~~[chiefs]~~ ***heads*** of the ~~[divisions]~~ ***units and offices of the Division*** in the unclassified service of the State;

(b) Administer the provisions of this chapter and other provisions of law relating to the duties of the ~~[Department;]~~ ***Division;*** and

(c) Carry out other duties and exercise other powers specified by law.

2. The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** may form committees to establish standards and determine criteria for evaluation of policies relating to informational services.

~~[Sec. 31.]~~ ***Sec. 55.*** NRS 242.105 is hereby amended to read as follows:

242.105 1. Except as otherwise provided in subsection 3, records and portions of records that are assembled, maintained, overseen or prepared by the ~~[Department]~~ ***Division*** to mitigate, prevent or respond to acts of terrorism, the public disclosure of which would, in the determination of the ~~[Director,]~~ ~~*[Chief Information Officer,]*~~ ***Administrator,*** create a substantial likelihood of threatening the safety of the general public are confidential and not subject to inspection by the general public to the extent that such records and portions of records consist of or include:

(a) Information regarding the infrastructure and security of information systems, including, without limitation:

(1) Access codes, passwords and programs used to ensure the security of an information system;

(2) Access codes used to ensure the security of software applications;

(3) Procedures and processes used to ensure the security of an information system; and

(4) Plans used to reestablish security and service with respect to an information system after security has been breached or service has been interrupted.

(b) Assessments and plans that relate specifically and uniquely to the vulnerability of an information system or to the measures which will be taken to respond to such vulnerability, including, without limitation, any compiled underlying data necessary to prepare such assessments and plans.

(c) The results of tests of the security of an information system, insofar as those results reveal specific vulnerabilities relative to the information system.

2. The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** shall maintain or cause to be maintained a list of each record or portion of a record that the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** has determined to be confidential pursuant to subsection 1. The list described in this subsection must be prepared and maintained so as to recognize the existence of each such record or portion of a record without revealing the contents thereof.

3. At least once each biennium, the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** shall review the list described in subsection 2 and shall, with respect to each record or portion of a record that the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** has determined to be confidential pursuant to subsection 1:

(a) Determine that the record or portion of a record remains confidential in accordance with the criteria set forth in subsection 1;

(b) Determine that the record or portion of a record is no longer confidential in accordance with the criteria set forth in subsection 1; or

(c) If the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** determines that the record or portion of a record is obsolete, cause the record or portion of a record to be disposed of in the manner described in NRS 239.073 to 239.125, inclusive.

4. On or before February 15 of each year, the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** shall:

(a) Prepare a report setting forth a detailed description of each record or portion of a record determined to be confidential pursuant to this section, if any, accompanied by an explanation of why each such record or portion of a record was determined to be confidential; and

(b) Submit a copy of the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) If the Legislature is in session, the standing committees of the Legislature which have jurisdiction of the subject matter; or

(2) If the Legislature is not in session, the Legislative Commission.

5. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 239C.030.

Sec. 56. **NRS 244A.689 is hereby amended to read as follows:**

244A.689 "Project" means:

1. Any land, building or other improvement and all real and personal properties necessary in connection therewith, whether or not in existence, suitable for:

(a) A manufacturing, industrial or warehousing enterprise;

(b) An organization for research and development;

(c) A health and care facility;

(d) A supplemental facility for a health and care facility;

(e) The purposes of a corporation for public benefit; or

(f) Affordable housing.

2. The refinancing of any land, building or other improvement and any real and personal property necessary for:

(a) A health and care facility;

(b) A supplemental facility for a health and care facility;

(c) The purposes of a corporation for public benefit; or

(d) Affordable housing.

3. Any land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination thereof or any interest therein, used by any natural person, partnership, firm, company, corporation, including a public utility, association, trust, estate, political subdivision, state agency or any other legal entity, or its legal representative, agent or assigns:

(a) For the reduction, abatement or prevention of pollution or for the removal or treatment of any substance in a processed material which otherwise would cause pollution when such material is used.

(b) In connection with the furnishing of water if available on reasonable demand to members of the general public.

(c) In connection with the furnishing of energy or gas.

4. Any real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire.

5. Any undertaking by a public utility, in addition to that allowed by subsections 2 and 3, which is solely for the purpose of making capital improvements to property, whether or not in existence, of a public utility.

6. In addition to the kinds of property described in subsections 2 and 3, if the project is for the generation and transmission of electricity, any other property necessary or useful for that purpose, including, without limitation, any leases and any rights to take water or fuel.

7. The preservation of any historic structure or its restoration for its original or another use, if the plan has been approved by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

Sec. 57. **NRS 277.058 is hereby amended to read as follows:**

277.058 1. A public entity, in consultation with any Indian tribe that has local aboriginal ties to the geographical area in which a unique archeological, paleontological or historical site is located and in cooperation

with the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs,]~~ ***Conservation and Natural Resources,*** may enter into a cooperative agreement with the owner of any property that contains a unique archeological, paleontological or historical site in this state or with any other person, agency of the Federal Government or other public entity for the preservation, protection, restoration and enhancement of unique archeological, paleontological or historical sites in this state, including, without limitation, cooperative agreements to:

(a) Monitor compliance with and enforce any federal or state statutes or regulations for the protection of such sites.

(b) Ensure the sensitive treatment of such sites in a manner that provides for their long-term preservation and the consideration of the values of relevant cultures.

(c) Apply for and accept grants and donations for the preservation, protection, restoration and enhancement of such sites.

(d) Create and enforce:

(1) Legal restrictions on the use of real property; and

(2) Easements for conservation, as defined in NRS 111.410,

➥ for the protection of such sites.

2. As used in this section, "public entity" means any:

(a) Agency of this state, including the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs;]~~ ***Conservation and Natural Resources;*** and

(b) County, city or town in this state.

~~[Sec. 32.]~~ ***Sec. 58.*** NRS 281.641 is hereby amended to read as follows:

281.641 1. If any reprisal or retaliatory action is taken against a state officer or employee who discloses information concerning improper governmental action within 2 years after the information is disclosed, the state officer or employee may file a written appeal with a hearing officer of the ~~[Department of]~~ Personnel ***Commission*** for a determination of whether the action taken was a reprisal or retaliatory action. The written appeal must be accompanied by a statement that sets forth with particularity:

(a) The facts and circumstances under which the disclosure of improper governmental action was made; and

(b) The reprisal or retaliatory action that is alleged to have been taken against the state officer or employee.

➥ The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive, and the procedures adopted by the Personnel Commission pursuant to subsection 4.

2. If the hearing officer determines that the action taken was a reprisal or retaliatory action, the hearing officer may issue an order directing the proper person to desist and refrain from engaging in such action. The hearing officer shall file a copy of the decision with the Governor or any other elected state officer who is responsible for the actions of that person.

3. The hearing officer may not rule against the state officer or employee based on the person or persons to whom the improper governmental action was disclosed.

4. The Personnel Commission may adopt rules of procedure for conducting a hearing pursuant to this section that are not inconsistent with the procedures set forth in NRS 284.390 to 284.405, inclusive.

5. As used in this section, "Personnel Commission" means the Personnel Commission created by NRS 284.030.

~~[Sec. 33.]~~ ***Sec. 59.*** NRS 284.015 is hereby amended to read as follows:

284.015 As used in this chapter, unless the context otherwise requires:

1. ***"Administrator" means the Administrator of the Division.***

2. "Commission" means the Personnel Commission.

~~[2. "Department" means the Department of Personnel.~~

~~3. "Director" means the Director of the Department.~~

~~4.]~~ ***3.*** "Disability," includes, but is not limited to, physical disability, mental retardation and mental or emotional disorder.

4. "Division" means the Division of Human Resource Management of the Department of Administration.

5. "Essential functions" has the meaning ascribed to it in 29 C.F.R. § 1630.2.

6. "Public service" means positions providing service for any office, department, board, commission, bureau, agency or institution in the Executive Department of the State Government operating by authority of the Constitution or law, and supported in whole or in part by any public money, whether the money is received from the Government of the United States or any branch or agency thereof, or from private or any other sources.

~~[Sec. 34.]~~ ***Sec. 60.*** NRS 284.025 is hereby amended to read as follows:

284.025 1. The ~~[Department of Personnel]~~ ***Division of Human Resource Management of the Department of Administration*** is hereby created.

2. The ~~[Department]~~ ***Division*** shall administer the provisions of this chapter.

~~[Sec. 35.]~~ ***Sec. 61.*** NRS 284.030 is hereby amended to read as follows:

284.030 1. There is hereby created in the ~~[Department]~~ ***Division*** a personnel commission composed of five members appointed by the Governor.

2. The Governor shall appoint:

(a) Three members who are representatives of the general public and have a demonstrated interest in or knowledge of the principles of public personnel administration.

(b) One member who is a representative of labor and has a background in personnel administration.

(c) One member who is a representative of employers or managers and has a background in personnel administration.

~~[Sec. 36.]~~ ***Sec. 62.*** NRS 284.172 is hereby amended to read as follows:

284.172 1. The ~~[Director]~~ ***Administrator*** shall prepare, maintain and revise as necessary a list of all positions in the classified service that consist primarily of performing data processing.

2. The request of an appointing authority that is required to use the equipment or services of the ***Division of Enterprise Information Technology Services of the*** Department of ~~[Information Technology]~~ ***Administration*** for a new position or the reclassification of an existing position to a position included on the list required by subsection 1 must be submitted to the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** of the ~~[Department of Information Technology]~~ ***Division of Enterprise Information Technology Services*** for approval before submission to the ~~[Department of Personnel.]~~ ***Division of Human Resource Management.***

~~[Sec. 37.]~~ ***Sec. 63.*** NRS 284.320 is hereby amended to read as follows:

284.320 1. In case of a vacancy in a position where peculiar and exceptional qualifications of a scientific, professional or expert character are required, and upon satisfactory evidence that for specific reasons competition in that case is impracticable, and that the position can best be filled by the selection of some designated person of high and recognized attainments in the required qualities, the ~~[director]~~ ***Administrator*** may suspend the requirements of competition.

2. The ~~[Director]~~ ***Administrator*** may suspend the requirements of competitive examination for positions requiring highly professional qualifications if past experience or current research indicates a difficulty in recruitment or if the qualifications include a license or certification.

3. Upon specific written justification by the appointing authority, the ~~[Director]~~ ***Administrator*** may suspend the requirement of competitive examination for a position where extreme difficulty in recruitment has been experienced and extensive efforts at recruitment have failed to produce five persons in the state service who are qualified applicants for promotion to the position.

4. Except in the circumstances described in subsection 2, no suspension may be general in its application to any position, and each case of suspension and the justifying circumstances must be reported in the biennial report of the ~~[department]~~ ***Division*** with the reasons for the suspension.

~~[Sec. 38.]~~ ***Sec. 64.*** NRS 284.390 is hereby amended to read as follows:

284.390 1. Within 10 working days after the effective date of an employee's dismissal, demotion or suspension pursuant to NRS 284.385, the employee who has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer of the ~~[Department]~~ ***Commission***

to determine the reasonableness of the action. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's dismissal, demotion or suspension.

2. The hearing officer shall grant the employee a hearing within 20 working days after receipt of the employee's written request unless the time limitation is waived, in writing, by the employee or there is a conflict with the hearing calendar of the hearing officer, in which case the hearing must be scheduled for the earliest possible date after the expiration of the 20 days.

3. The employee may represent himself or herself at the hearing or be represented by an attorney or other person of the employee's own choosing.

4. Technical rules of evidence do not apply at the hearing.

5. After the hearing and consideration of the evidence, the hearing officer shall render a decision in writing, setting forth the reasons therefor.

6. If the hearing officer determines that the dismissal, demotion or suspension was without just cause as provided in NRS 284.385, the action must be set aside and the employee must be reinstated, with full pay for the period of dismissal, demotion or suspension.

7. The decision of the hearing officer is binding on the parties.

8. Any petition for judicial review of the decision of the hearing officer must be filed in accordance with the provisions of chapter 233B of NRS.

Sec. 65. **NRS 321.5967 is hereby amended to read as follows:**

321.5967 1. There is hereby created a Board of Review composed of:

(a) The Director of the State Department of Conservation and Natural Resources;

(b) The Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;

(c) The Administrator of the Division of Minerals of the Commission on Mineral Resources;

(d) The Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources;

(e) The State Engineer;

(f) The State Forester Firewarden;

(g) The Chair of the State Environmental Commission;

(h) The Director of the State Department of Agriculture;

(i) The Chair of the Board of Wildlife Commissioners; and

(j) The Administrator of the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

2. The Chair of the State Environmental Commission serves as Chair of the Board.

3. The Board shall meet at such times and places as are specified by a call of the Chair. Six members of the Board constitute a quorum. The affirmative vote of a majority of the Board members present is sufficient for any action of the Board.

4. Except as otherwise provided in this subsection, the members of the Board serve without compensation. The Chair of the State Environmental Commission and the Chair of the Board of Wildlife Commissioners are entitled to receive a salary of not more than $80, as fixed by the Board, for each day's attendance at a meeting of the Board.

5. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. The Board:

(a) Shall review and approve or disapprove all regulations proposed by the State Land Registrar pursuant to NRS 321.597.

(b) May review any decision of the State Land Registrar made pursuant to NRS 321.596 to 321.599, inclusive, if an appeal is taken pursuant to NRS 321.5987, and affirm, modify or reverse the decision.

(c) Shall review any plan or statement of policy concerning the use of lands in Nevada under federal management which is submitted by the State Land Use Planning Agency.

~~[Sec. 39.]~~ ***Sec. 66.*** NRS 331.010 is hereby amended to read as follows:

331.010 As used in NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive, unless the context otherwise requires:

1. ***"Administrator" means the Administrator of the Division.***

2. "Buildings and Grounds ~~[Division"]~~ ***Section"*** means the Buildings and Grounds ***Section of the*** Division . ~~[of the Department of Administration.~~

~~2. "Chief" means the Chief of the Buildings and Grounds Division.]~~

3. ***"Department" means the Department of Administration.***

4. "Director" means the Director of the Department . ~~[of Administration.]~~

5. "Division" means the State Public Works Division of the Department.

~~[Sec. 40.]~~ ***Sec. 67.*** NRS 331.020 is hereby amended to read as follows:

331.020 The ~~[Buildings and Grounds]~~ Division shall administer the provisions of NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive, subject to administrative supervision by the Director.

~~[Sec. 41.]~~ ***Sec. 68.*** NRS 331.060 is hereby amended to read as follows:

331.060 1. The ~~[Chief]~~ ***Administrator*** shall, within the limits of legislative appropriations, employ such clerks, engineers, electricians, painters, mechanics, janitors, gardeners and other persons as may be necessary to carry out the provisions of NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive.

2. The employees shall perform duties as assigned by the ~~[Chief.]~~ ***Administrator.***

3. The ~~[Chief]~~ ***Administrator*** is responsible for the fitness and good conduct of all employees.

~~[Sec. 42.]~~ ***Sec. 69.*** NRS 331.085 is hereby amended to read as follows:

331.085 The ~~[Chief]~~ ***Administrator*** may charge the various state departments, agencies and institutions for the cost of labor and materials for extra services provided to their respective offices by the Buildings and Grounds ~~[Division.]~~ ***Section.*** Extra services for which these charges may be made include, but are not limited to, office remodeling, furniture construction and moving. Money received by the Chief for this purpose must be deposited in the Buildings and Grounds Operating Fund in the State Treasury.

~~[Sec. 43.]~~ ***Sec. 70.*** NRS 331.100 is hereby amended to read as follows:

331.100 The ~~[Chief]~~ ***Administrator*** has the following specific powers and duties:

1. To keep all buildings, rooms, basements, floors, windows, furniture and appurtenances clean, orderly and presentable as befitting public property.

2. To keep all yards and grounds clean and presentable, with proper attention to landscaping and horticulture.

3. Under the supervision of the State Fire Marshal, to make arrangements for the installation and maintenance of water sprinkler systems, fire extinguishers, fire hoses and fire hydrants, and to take other fire prevention and suppression measures, necessary and feasible, that may reduce the fire hazards in all buildings under his or her control.

4. To make arrangements and provision for the maintenance of the State's water system supplying the state-owned buildings at Carson City, with particular emphasis upon the care and maintenance of water reservoirs, in order that a proper and adequate supply of water be available to meet any emergency.

5. To make arrangements for the installation and maintenance of water meters designed to measure accurately the quantity of water obtained from sources not owned by the State.

6. To make arrangements for the installation and maintenance of a lawn sprinkling system on the grounds adjoining the Capitol Building at Carson City, or on any other state-owned grounds where such installation is practical or necessary.

7. To investigate the feasibility, and economies resultant therefrom, if any, of the installation of a central power meter, to measure electrical energy used by the state buildings in the vicinity of and including the Capitol Building at Carson City, assuming the buildings were served with power as one unit.

8. To purchase, use and maintain such supplies and equipment as are necessary for the care, maintenance and preservation of the buildings and grounds under his or her supervision and control.

9. Subject to the provisions of chapter 426 of NRS regarding the operation of vending stands in or on public buildings and properties by persons who are blind, to install or remove vending machines and vending

stands in the buildings under his or her supervision and control, and to have control of and be responsible for their operation.

10. To **cooperate with the Nevada Arts Council** ~~[and]~~ ***of*** **the** ~~[State Public Works Board]~~ ***Department of Tourism and Cultural Affairs*** **to** plan the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

~~[Sec. 44.]~~ ***Sec. 71.*** NRS 331.102 is hereby amended to read as follows:

331.102 1. The ~~[Chief]~~ ***Administrator*** shall:

(a) Maintain accurate records reflecting the costs of administering the provisions of NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive.

(b) Between July 1 and August 1 of each even-numbered year, determine, on the basis of experience during the 2 preceding fiscal years, the estimated cost per square foot of rentable area of carrying out the functions of the Buildings and Grounds ~~[Division]~~ ***Section*** for the 2 succeeding fiscal years, and inform each department, agency and institution operating under the provisions of NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive, of the cost.

2. Each department, agency and institution occupying space in state-owned buildings maintained by the Buildings and Grounds ~~[Division,]~~ ***Section*** shall include in its budget for each of the 2 succeeding fiscal years an amount of money equal to the cost per budgeted square foot of rentable area, as determined by the ~~[Chief,]~~ ***Administrator,*** multiplied by the number of rentable square feet occupied by each department, agency or institution.

3. Except as otherwise provided in subsection 4, on July 1 of each year each department, agency or institution shall pay to the ~~[Chief]~~ ***Administrator*** for deposit in the Buildings and Grounds Operating Fund the amount of money appropriated to or authorized for the department, agency or institution for building space rental costs pursuant to its budget.

4. Any state department, agency or institution may pay building space rental costs required pursuant to subsection 3 on a date or dates other than July 1, if compliance with federal law or regulation so requires.

~~[Sec. 45.]~~ ***Sec. 72.*** NRS 331.110 is hereby amended to read as follows:

331.110 1. ~~[Except as otherwise provided in subsection 2, the Chief]~~ ***The Administrator*** may lease and equip office rooms outside of state buildings for the use of state officers and employees, whenever sufficient space for the officers and employees cannot be provided within state buildings, but no such lease may extend beyond the term of 1 year unless it is reviewed and approved by a majority of the members of the State Board of Examiners. The Attorney General shall approve each lease entered into pursuant to this subsection as to form and compliance with law.

2. ~~[The]~~ ***Except as otherwise provided in this subsection, the*** provisions of subsection 1 **do not** apply to ~~*[all]*~~ state officers and employees of boards ~~*[, including, without limitation, officers and employees of:*~~

~~*(a) Boards]*~~ that are exempt from the provisions of chapter 353 of NRS pursuant to NRS 353.005.~~*,* [;~~*,*~~

~~*(b)]*~~ ***The provisions of subsection 1 apply to:***

(a) The Department of Public Safety;

~~*[(c)]*~~ ***(b) The Department of Motor Vehicles; and***

~~*[(d)]*~~ ***(c) The State Gaming Control Board.***

3. An owner of a building who enters into a contract with a state agency for occupancy in the building:

(a) If the contract is entered into before May 28, 2009, may comply with the program; and

(b) If the contract is entered into on or after May 28, 2009, shall, to the extent practicable as determined by the Administrator, comply with the program.

➥ If an owner chooses not to comply with the program pursuant to paragraph (a), a state or local agency shall not, after May 28, 2009, enter into a contract for occupancy of a building owned by the owner, except that the Administrator may authorize a state or local agency to enter into a contract for the occupancy of a building owned by an owner who does not comply with the program if the Administrator determines that it is impracticable for the owner to comply with the program.

4. As used in this section, "program" means the program established pursuant to section ~~*[93]*~~ ***140 of this act.***

~~[Sec. 46.]~~ ***Sec. 73.*** NRS 331.140 is hereby amended to read as follows:

331.140 1. The ~~[Chief]~~ ***Administrator*** shall take proper care to prevent any unlawful activity on or damage to any state property under the supervision and control of the ~~[Chief,]~~ ***Administrator,*** and to protect the safety of any persons on that property.

2. The Director of the Department of Public Safety shall appoint to the Capitol Police Division of that Department such personnel as may be necessary to assist the ~~[Chief of]~~ ***Administrator and*** the Buildings and Grounds ~~[Division]~~ ***Section*** in the enforcement of subsection 1. The salaries and expenses of the personnel appointed pursuant to this subsection must, within the limits of legislative authorization, be paid out of the Buildings and Grounds Operating Fund.

~~[Sec. 47.]~~ ***Sec. 74.*** NRS 331.160 is hereby amended to read as follows:

331.160 1. The Marlette Lake Water System, composed of the water rights, easements, pipelines, flumes and other fixtures and appurtenances used in connection with the collection, transmission and storage of water in Carson City and Washoe and Storey Counties, Nevada, acquired by the State of Nevada pursuant to law, is hereby created.

2. The purposes of the Marlette Lake Water System are:

(a) To provide adequate supplies of water to the areas served.

(b) To maintain distribution lines, flumes, dams, culverts, bridges and all other appurtenances of the system in a condition calculated to assure dependable supplies of water.

(c) To sell water under equitable and fiscally sound contractual arrangements. Any such contractual arrangements must not include the value of the land comprising the watershed as an element in determining the cost of water sold.

3. The Department of Administration is designated as the state agency to supervise and administer the functions of the Marlette Lake Water System.

4. The Director of the Department of Administration may assign the supervision and administration of the functions of the Marlette Lake Water System to one of the divisions of the Department ***, a city or a county,*** or may establish a separate division to carry out the purposes of this section and NRS 331.170 and 331.180. Subject to the limit of money provided by legislative appropriation or revenues whose expenditure is authorized by law, the chief of that division***, or the city or county, as applicable,*** shall employ necessary staff to carry out the provisions of this section and NRS 331.170 and 331.180.

5. The Director of the Department of Administration shall:

(a) Establish the value of water to be distributed from the Marlette Lake Water System.

(b) Include in the water rate structure provisions for recovery, over a reasonable period, of the major capital costs of improving and modernizing the System.

(c) Assure that the rate structure is equitable for all present and potential customers.

6. The Director of the Department of Administration may request the State Board of Finance to issue general obligation bonds of the State or revenue bonds in an aggregate principal amount not to exceed $25,000,000 to finance the capital costs of improving and modernizing the Marlette Lake Water System. Before any revenue bonds are issued pursuant to this subsection, the State Board of Finance must determine that sufficient revenue will be available in the Marlette Lake Water System Fund to pay the interest and installments of principal as they become due. The provisions of NRS 349.150 to 349.364, inclusive, apply to the issuance of state securities pursuant to this subsection.

7. The Legislature finds and declares that the issuance of state securities and the incurrence of indebtedness pursuant to subsection 6 is necessary for the protection and preservation of the natural resources of this State and for the purpose of obtaining the benefits thereof, and constitutes an exercise of the authority conferred by the second paragraph of Section 3 of Article 9 of the Constitution of the State of Nevada.

~~[Sec. 48.]~~ ***Sec. 75.*** NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. ***"Division" means the State Public Works Division of the Department of Administration.***

9. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

~~[9.]~~ ***10.*** "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

~~[10.]~~ ***11.*** "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

~~[11.]~~ ***12.*** "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

~~[12.]~~ ***13.*** "Offense" means failing to:

(a) Pay the prevailing wage required pursuant to this chapter;

(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;

(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

(d) Comply with subsection 4 or 5 of NRS 338.070.

~~[13.]~~ ***14.*** "Prime contractor" means a contractor who:

(a) Contracts to construct an entire project;

(b) Coordinates all work performed on the entire project;

(c) Uses his or her own workforce to perform all or a part of the public work; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➥ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

~~[14.]~~ ***15.*** "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

~~[15.]~~ ***16.*** "Public work" means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

(1) Public buildings;

(2) Jails and prisons;

(3) Public roads;

(4) Public highways;

(5) Public streets and alleys;

(6) Public utilities;

(7) Publicly owned water mains and sewers;

(8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

~~[16.]~~ ***17.*** "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~[17.]~~ ***18.*** "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➥ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

~~[18.]~~ ***19.*** "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

➥ for the provision of labor, materials, equipment or supplies for a construction project.

~~[19.]~~ ***20.*** "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

~~[20.]~~ ***21.*** "Supplier" means a person who provides materials, equipment or supplies for a construction project.

~~[~~21.~~]~~ ***22.*** "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

~~[~~22.~~]~~ ***23.*** "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

~~[Sec. 49.]~~ ***Sec. 76.*** NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The ~~[State Public Works Board]~~ ***Division*** shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the ~~[State Public Works Board]~~ ***Division*** to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13845 or 338.13895;

(5) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the public work;

(6) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(7) The truthfulness and completeness of the application.

~~[Sec. 50.]~~ ***Sec. 77.*** NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the ~~[State Public Works Board]~~ ***Division*** or the local government, the ***State Public Works*** Board or governing body

shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the Board or local government. At least 10 days before the date set for the hearing, the Board or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the Board or governing body may:

(a) Administer oaths;

(b) Take testimony;

(c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;

(d) Require the production of related books, papers and documents; and

(e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The Board or governing body shall issue a decision on the matter during the hearing. The decision of the Board or governing body is a final decision for purposes of judicial review.

~~[Sec. 51.]~~ ***Sec. 78.*** NRS 338.13845 is hereby amended to read as follows:

338.13845 1. If the ~~[State Public Works Board]~~ ***Division*** determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in NRS 338.13844, the business is thereafter permanently prohibited from:

(a) Applying for or receiving the preference described in NRS 338.13844; and

(b) Bidding on a contract for a public work of this State.

2. If the ~~[State Public Works Board]~~ ***Division*** determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in NRS 338.13844, the business may apply to the ~~[Manager]~~ ***Administrator*** to review the decision pursuant to chapter 233B of NRS.

3. As used in this section, ~~["Manager"]~~ ***"Administrator"*** has the meaning ascribed to it in ~~[NRS 341.015.]~~ ***section ~~[55]~~ 82 of this act.***

~~[Sec. 52.]~~ ***Sec. 79.*** NRS 338.13847 is hereby amended to read as follows:

338.13847 The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 338.1384 to 338.13847, inclusive. The regulations may include, without limitation, provisions setting forth:

1. The method by which a business may apply to receive the preference described in NRS 338.13844;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in NRS 338.13844; and

3. Such other matters as the ~~[State Public Works Board]~~ ***Division*** deems relevant.

➥ In carrying out the provisions of this section, the State Public Works Board ***and the Division*** shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and NRS 333.3369 are reasonably consistent.

~~[Sec. 53.]~~ ***Sec. 80.*** NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240; or

(II) The Renewable Energy School Pilot Program created by NRS 701B.350.

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in

42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the ~~[Nevada]~~ ***Director of the Office of*** Energy ~~[Commissioner]~~ and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection ~~[11]~~ ***12*** of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;
(2) Fuel cells;
(3) Geothermal energy;
(4) Solar energy;
(5) Waterpower; and
(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

~~[Sec. 54.]~~ ***Sec. 81.*** Chapter 341 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[55]~~ **82** to ~~[58,]~~ **85**, inclusive, of this act.

~~[Sec. 55.]~~ ***Sec. 82. "Administrator" means the Administrator of the Division.***

~~[Sec. 56.]~~ ***Sec. 83. "Department" means the Department of Administration.***

~~[Sec. 57.]~~ ***Sec. 84. "Division" means the State Public Works Division of the Department.***

~~[Sec. 58.]~~ ***Sec. 85. 1. There is hereby created the State Public Works Division of the Department of Administration.***

2. The Division consists of:

(a) The Administrator;

(b) The Buildings and Grounds Section; and

(c) The State Public Works Board.

3. The Division shall, subject to the administrative supervision of the Director of the Department, administer the provisions of this chapter and NRS 331.010 to 331.180, inclusive.

~~[Sec. 59.]~~ ***Sec. 86.*** NRS 341.010 is hereby amended to read as follows:

341.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 341.013 and ~~[~~341.015~~]~~ ***sections*** ~~*[55, 56 and 57]*~~ ***82, 83 and 84 of this act*** have the meanings ascribed to them in those sections.

~~[~~Sec. 60.~~]~~ ***Sec. 87.*** NRS 341.020 is hereby amended to read as follows:

341.020 1. The State Public Works Board is hereby created.

2. The Board consists of ~~[~~seven~~]~~ ***the Director of the Department and six*** members appointed as follows:

(a) The Governor shall appoint:

(1) One member who has education or experience, or both, regarding the principles of engineering or architecture;

(2) ~~[~~One member who has education or experience, or both, regarding the principles of financing or managing public or private construction projects;~~]~~

~~(3)~~~~]~~ One member who is licensed to practice law in this State and who has experience in the practice of construction law; and

~~[~~(4)~~]~~ ***(3)*** Two members who are licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

(b) The Majority Leader of the Senate shall appoint one member who is licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

(c) The Speaker of the Assembly shall appoint one member who is licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

3. Each member of the Board ***who is appointed*** serves at the pleasure of the appointing authority.

4. A vacancy on the Board ***in an appointed position*** must be filled by the appointing authority in the same manner as the original appointment.

Sec. 88. (Deleted by amendment.)

~~[~~Sec. 61.~~]~~ ***Sec. 88.5.*** NRS 341.070 is hereby amended to read as follows:

341.070 The Board shall:

1. Adopt such rules for the regulation of its proceedings and the transaction of its business as it deems proper.

2. Meet ~~[~~at least once every 3 months.~~]~~ ***as necessary to conduct the business of the Board for the following purposes:***

(a) Submitting reports and making recommendations as required pursuant to NRS 341.191;

(b) Adopting regulations; and

(c) Presiding over appeals taken on the following matters:

(1) The qualification of contractors; and

(2) Disputes regarding contracts.

~~[Sec. 62.]~~ ***Sec. 89.*** NRS 341.100 is hereby amended to read as follows:

341.100 1. The ~~[Board shall appoint a Manager and a deputy manager for compliance and code enforcement, each of whom must be approved by the Governor. The Manager]~~ ***Administrator*** and the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement serve at the pleasure of the ~~[Board and the Governor.]~~ ***Director of the Department.***

2. The ~~[Manager, with the approval of the Board,]~~ ***Administrator*** shall appoint :

(a) A ~~*[a]*~~ deputy ~~[manager]~~ ***administrator*** for professional services ~~*[.]*~~ **; and**

(b) A deputy ~~[manager for administrative, fiscal and constructional services.]~~ ***administrator of the Buildings and Grounds Section.***

➥ Each ~~*[The]*~~ deputy ~~[manager]~~ ***administrator*** appointed pursuant to this subsection serves at the pleasure of the ~~[Manager.]~~ ***Administrator.***

3. ***The Administrator shall recommend and the Director shall appoint a deputy administrator for compliance and code enforcement. The deputy administrator appointed pursuant to this subsection has the final authority in the interpretation and enforcement of any applicable building codes.***

4. The ~~[Manager]~~ ***Administrator*** may appoint such other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

~~[4.]~~ ***5.*** The ~~[Manager]~~ ***Administrator*** and each deputy ~~[manager]~~ ***administrator*** are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, the ~~[Manager]~~ ***Administrator*** and each deputy ~~[manager]~~ ***administrator*** shall devote his or her entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.

~~[5.]~~ ***6.*** The ~~[Manager]~~ ***Administrator*** and the deputy ~~[manager]~~ ***administrator*** for professional services must each be a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS.

~~[6. The deputy manager for administrative, fiscal and constructional services must have a comprehensive knowledge of the principles of administration and a working knowledge of the principles of engineering or architecture as determined by the Board.]~~

7. The deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement must have a comprehensive knowledge of building codes and a working knowledge of the principles of engineering or architecture as determined by the ~~[Board.]~~ ***Administrator.***

8. The ~~[Manager]~~ ***Administrator*** shall:

(a) Serve as the Secretary of the Board.

(b) Manage the daily affairs of the ~~[Board.]~~ ***Division.***

(c) Represent the Board ***and the Division*** before the Legislature.

(d) Prepare and submit to the Board, for its approval, the recommended priority for proposed capital improvement projects and provide the Board with an estimate of the cost of each project.

(e) ~~[Make recommendations to the Board for the selection of]~~ ***Select*** architects, engineers and contractors.

(f) ~~[Make recommendations to the Board concerning the acceptance of]~~ *Accept* completed projects.

(g) Submit in writing to the ~~[Board,]~~ ***Director of the Department,*** the Governor and the Interim Finance Committee a monthly report regarding all public works projects which are a part of the approved capital improvement program. For each such project, the monthly report must include, without limitation, a detailed description of the progress of the project which highlights any specific events, circumstances or factors that may result in:

(1) Changes in the scope of the design or construction of the project or any substantial component of the project which increase or decrease the total square footage or cost of the project by 10 percent or more;

(2) Increased or unexpected costs in the design or construction of the project or any substantial component of the project which materially affect the project;

(3) Delays in the completion of the design or construction of the project or any substantial component of the project; or

(4) Any other problems which may adversely affect the design or construction of the project or any substantial component of the project.

(h) Have final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.

9. The deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement shall serve as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government.

~~[Sec. 63.]~~ ***Sec. 90.*** NRS 341.105 is hereby amended to read as follows:

341.105 1. When acting in the capacity of building official pursuant to subsection 9 of NRS 341.100, the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement or his or her designated representative may issue an order to compel the cessation of work on all or any portion of a building or structure based on health or safety reasons or for violations of applicable building codes or other laws or regulations.

2. If a person receives an order issued pursuant to subsection 1, the person shall immediately cease work on the building or structure or portion thereof.

3. Any person who willfully refuses to comply with an order issued pursuant to subsection 1 or who willfully encourages another person to refuse to comply or assists another person in refusing to comply with such an order is guilty of a misdemeanor and shall be punished as provided in

NRS 193.150. Any penalties collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

4. In addition to the criminal penalty set forth in subsection 3, the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement may impose an administrative penalty of not more than $1,000 per day for each day that a person violates subsection 3.

5. If a person wishes to contest an order issued to the person pursuant to subsection 1, the person may bring an action in district court. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. An action brought pursuant to this subsection does not stay enforcement of the order unless the district court orders otherwise.

6. If a person refuses to comply with an order issued pursuant to subsection 1, the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement may bring an action in the name of the State of Nevada in district court to compel compliance and to collect any administrative penalties imposed pursuant to subsection 4. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. Any attorney's fees and costs awarded by the court in favor of the State and any penalties collected in the action must be deposited with the State Treasurer for credit to the State General Fund.

7. No right of action exists in favor of any person by reason of any action or failure to act on the part of the ***Division, Director of the Department, Administrator,*** Board ~~[,]~~ ***or*** the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement or any officers, employees or agents of the ~~[Board]~~ ***Division*** in carrying out the provisions of this section.

8. As used in this section, "person" includes a government and a governmental subdivision, agency or instrumentality.

~~[Sec. 64.]~~ ***Sec. 91.*** NRS 341.110 is hereby amended to read as follows:

341.110 In general, the ~~[Board]~~ ***Administrator*** shall have such powers as may be necessary to enable ~~[it]~~ ***him or her*** to fulfill ~~[its]~~ ***his or her*** functions and to carry out the purposes of this chapter.

~~[Sec. 65.]~~ ***Sec. 92.*** NRS 341.119 is hereby amended to read as follows:

341.119 1. ~~[Upon]~~ ***Except as otherwise provided in this subsection, upon*** the request of the head of a state agency, the ~~[Board]~~ ***Administrator*** may delegate to that agency any of the authority granted the ~~[Board]~~ ***Division*** pursuant to NRS 341.141 to 341.148, inclusive. ***The Administrator shall not delegate the powers described in subsection 2 of NRS 341.145.***

2. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the ~~[Board]~~ ***Division*** concerning a construction project or to approve the advance planning of a project.

~~[Sec. 66.]~~ ***Sec. 93.*** NRS 341.141 is hereby amended to read as follows:

341.141 1. The ~~[Board]~~ ***Division*** shall furnish engineering and architectural services to the Nevada System of Higher Education and all other state departments, boards or commissions charged with the construction of any building constructed on state property or for which the money is appropriated by the Legislature, except:

(a) Buildings used in maintaining highways;

(b) Improvements, other than nonresidential buildings with more than 1,000 square feet in floor area, made:

(1) In state parks by the State Department of Conservation and Natural Resources; or

(2) By the Department of Wildlife; and

(c) Buildings on property controlled by other state agencies if the ~~[Board]~~ ***Administrator*** has delegated ~~[its]~~ ***his or her*** authority in accordance with NRS 341.119.

➥ The Board of Regents of the University of Nevada and all other state departments, boards or commissions shall use those services.

2. The services must consist of:

(a) Preliminary planning;

(b) Designing;

(c) Estimating of costs; and

(d) Preparation of detailed plans and specifications.

~~[Sec. 67.]~~ ***Sec. 94.*** NRS 341.145 is hereby amended to read as follows:

341.145 ***1.*** The Board:

~~[1.]~~ ***(a)*** Shall determine whether any rebates are available from a public utility for installing devices in any state building which are designed to decrease the use of energy in the building. If such a rebate is available, the ~~[Board]~~ ***Administrator*** shall apply for the rebate.

~~[2.]~~ ***(b)*** Shall solicit bids for and let all contracts for new construction or major repairs.

~~[3.]~~ ***(c)*** May negotiate with the lowest responsible and responsive bidder on any contract to obtain a revised bid if:

~~[(a)]~~ ***(1)*** The bid is less than the appropriation made by the Legislature for that building project; and

~~[(b)]~~ ***(2)*** The bid does not exceed the relevant budget item for that building project as established by the ~~[Board]~~ ***Administrator*** by more than 10 percent.

~~[4.]~~ ***(d)*** May reject any or all bids.

~~[5.]~~ ***(e)*** After the contract is let, shall supervise and inspect construction and major repairs. The cost of supervision and inspection must be financed from the capital construction program approved by the Legislature.

~~[6.]~~ ***(f)*** Shall obtain prior approval from the Interim Finance Committee before authorizing any change in the scope of the design or construction of a

project as that project was authorized by the Legislature, if the change increases or decreases the total square footage or cost of the project by 10 percent or more.

~~[7.]~~ ***(g)*** Except for changes that require prior approval pursuant to ~~[subsection 6,]~~ ***paragraph (f)*** may authorize change orders, before or during construction:

~~[(a)]~~ ***(1)*** In any amount, where the change represents a reduction in the total awarded contract price.

~~[(b)]~~ ***(2)*** Except as otherwise provided in ~~[paragraph (c),]~~ ***subparagraph (3),*** not to exceed in the aggregate 15 percent of the total awarded contract price, where the change represents an increase in that price.

~~[(c)]~~ ***(3)*** In any amount, where the total awarded contract price is less than $50,000 and the change represents an increase not exceeding the amount of the total awarded contract price.

~~[(d)]~~ ***(4)*** In any amount, where additional money was authorized or appropriated by the Legislature and issuing a new contract would not be in the best interests of the State.

~~[8.]~~ ***(h)*** Shall specify in any contract with a design professional the period within which the design professional must prepare and submit to the ~~[Board]~~ ***Administrator*** a change order that has been authorized by the design professional. As used in this ~~[subsection,]~~ ***paragraph,*** "design professional" means a person with a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS.

~~[9.]~~ ***(i)*** Has final authority to accept each building or structure, or any portion thereof, on property of the State or held in trust for any division of the State Government as completed or to require necessary alterations to conform to the contract ***,*** ~~[or to codes adopted by the Board,]~~ and to file the notice of completion ~~[and certificate of occupancy]~~ for the building or structure.

2. The deputy administrator for compliance and code enforcement, when acting as building official pursuant to subsection 9 of NRS 341.100, has the final authority in:

(a) Requiring necessary alterations to conform to any building codes adopted by the Board; and

(b) Issuing a certificate of occupancy for a building or structure.

~~[Sec. 68.]~~ ***Sec. 95.*** NRS 341.146 is hereby amended to read as follows:

341.146 1. The ~~[Board]~~ ***Division*** shall establish funds for projects of capital construction necessary to account for the program of capital construction approved by the Legislature. These funds must be used to account for all revenues, appropriations and expenditures restricted to constructing buildings and other projects which come under the supervision of the ~~[Board.]~~ ***Division.***

2. If a state department, board, commission or agency provides to the ~~[Board]~~ ***Division*** money that has not been appropriated by the Legislature for

a capital improvement project, any interest earned on that money accrues to the benefit of the project. Upon a determination by the ~~[Board]~~ ***Administrator*** that the project is completed, the ~~[Board]~~ ***Division*** shall return any principal and interest remaining on that money to the department, board, commission or agency that had provided the money to the ~~[Board.]~~ ***Division.***

3. Except as otherwise provided in subsection 4, if the money actually received by the ~~[Board]~~ ***Division*** for a capital improvement project includes money from more than one source, the money must be expended in the following order:

(a) Money received for the project from the Federal Government;

(b) Money generated by the state department, board, commission or agency for whom the project is being performed;

(c) Money that was approved for the same or a different project during a previous biennium that has been reallocated during the current biennium for the project;

(d) Except as otherwise provided in paragraphs (e), (f) and (g), money received for the project from any other source;

(e) Money from the issuance of general obligation bonds;

(f) Money from the State Highway Fund; and

(g) Money from the State General Fund.

4. The provisions of subsection 3 do not apply if the receipt of any money from the Federal Government for the project is conditioned upon a different order of expenditure.

~~[Sec. 69.]~~ ***Sec. 96.*** NRS 341.153 is hereby amended to read as follows:

341.153 1. The Legislature hereby finds as facts:

(a) That the ***planning, maintenance and*** construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

(b) That this ***planning, maintenance and*** construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

(c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all ***planning, maintenance and*** construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by, and final authority for its completion and acceptance vested in, the ~~[Board]~~ ***Division*** as provided in NRS 341.141 to 341.148, inclusive.

~~[Sec. 70.]~~ ***Sec. 97.*** NRS 341.155 is hereby amended to read as follows:

341.155 With the concurrence of the ~~[Board,]~~ ***Administrator,*** the Board of Regents of the University of Nevada and any other state department, board or commission may enter into agreements with persons, associations or corporations to provide consulting services to determine and plan the construction work that may be necessary to meet the needs of the programs of those agencies. These contracts must be for a term not exceeding 5 years and must provide for payment of a fee for those services not to exceed one-half of 1 percent of the total value of:

1. In the case of the Nevada System of Higher Education, building construction contracts relating to the construction of a branch or facility within the Nevada System of Higher Education; and

2. In the case of another state department, board or commission, all construction contracts relating to construction for that agency,

➥ during the term and in the area covered by the contract.

~~[Sec. 71.]~~ ***Sec. 98.*** NRS 341.161 is hereby amended to read as follows:

341.161 1. The ~~[Board]~~ ***Administrator*** may let to a contractor licensed under chapter 624 of NRS a contract for services which assist the ~~[Board]~~ ***Division*** in the design and construction of a project of capital improvement.

2. The Board shall adopt regulations establishing procedures for:

(a) The determination of the qualifications of contractors to bid for contracts for services described in subsection 1.

(b) The bidding and awarding of such contracts, subject to the provisions of subsection 3.

(c) The awarding of construction contracts based on a final cost of the project which the contractor guarantees will not be exceeded.

(d) The scheduling and controlling of projects.

3. Bids on contracts for services which assist the ~~[Board]~~ ***Division*** in the design and construction of a project of capital improvement must state separately the contractor's cost for:

(a) Assisting the ~~[Board]~~ ***Division*** in the design and construction of the project.

(b) Obtaining all bids for subcontracts.

(c) Administering the construction contract.

4. A person who furnishes services under a contract awarded pursuant to subsection 1 is a contractor subject to all provisions pertaining to a contractor in title 28 of NRS.

~~[Sec. 72.]~~ ***Sec. 99.*** NRS 341.166 is hereby amended to read as follows:

341.166 1. The ~~[Board]~~ ***Administrator*** may enter into a contract for services with a contractor licensed pursuant to chapter 624 of NRS to assist the ~~[Board:]~~ ***Division:***

(a) In the development of designs, plans, specifications and estimates of costs for a proposed construction project.

(b) In the review of designs, plans, specifications and estimates of costs for a proposed construction project to ensure that the designs, plans, specifications and estimates of costs are complete and that the project is feasible to construct.

2. The ~~[Board]~~ ***Division*** is not required to advertise for bids for a contract for services pursuant to subsection 1, but may solicit bids from not fewer than three licensed contractors and may award the contract to the lowest responsible and responsive bidder.

3. The Board shall adopt regulations establishing procedures for:

(a) The determination of the qualifications of contractors to bid for the contracts for services described in subsection 1.

(b) The bidding and awarding of such contracts.

4. If a proposed construction project for which a contractor is awarded a contract for services by the ~~[Board]~~ ***Division*** pursuant to subsection 1 is advertised pursuant to NRS 338.1385, that contractor may submit a bid for the contract for the proposed construction project if the contractor is qualified pursuant to NRS 338.1375.

~~[Sec. 73.]~~ ***Sec. 100.*** NRS 341.211 is hereby amended to read as follows:

341.211 The ~~[Board]~~ ***Division*** shall:

1. Cooperate with other departments and agencies of the State in their planning efforts.

2. Advise and cooperate with municipal, county and other local planning commissions within the State to promote coordination between the State and the local plans and developments.

3. **Cooperate with the Nevada Arts Council ~~[and]~~ *of* the ~~[Buildings and Grounds Division of the]~~ Department of ~~[Administration]~~ *Tourism and Cultural Affairs* to plan** ~~*[Plan]*~~ the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

Sec. 101. **NRS 349.510 is hereby amended to read as follows:**

349.510 "Project" means:

1. Any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether or not in existence, suitable for new construction, improvement, rehabilitation or redevelopment for:

(a) Industrial uses, including assembling, fabricating, manufacturing, processing or warehousing;

(b) Research and development relating to commerce or industry, including professional, administrative and scientific offices and laboratories;

(c) Commercial enterprises;

(d) Civic and cultural enterprises open to the general public, including theaters, museums and exhibitions, together with buildings and other structures, machinery, equipment, facilities and appurtenances thereto which the Director deems useful or desirable in connection with the conduct of any such enterprise;

(e) An educational institution operated by a nonprofit organization not otherwise directly funded by the State which is accredited by a nationally recognized educational accrediting association;

(f) Health and care facilities and supplemental facilities for health and care;

(g) The purposes of a corporation for public benefit; or

(h) A renewable energy generation project.

2. Any real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire.

3. The preservation of a historic structure or its restoration for its original or another use, if the plan has been approved by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

Sec. 102. **NRS 350.575 is hereby amended to read as follows:**

350.575 1. Upon the adoption of a resolution to finance the preservation or restoration of a historic structure, in the manner provided in NRS 350.087, by a municipality, a certified copy thereof must be forwarded to the Executive Director of the Department of Taxation, accompanied by a letter from the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs]~~ ***Conservation and Natural Resources*** certifying that the preservation or restoration conforms to accepted standards for such work. As soon as is practicable, the Executive Director of the Department of Taxation shall, after consideration of the tax structure of the municipality concerned and the probable ability of the municipality to repay the requested financing, approve or disapprove the resolution in writing to the governing board. No such resolution is effective until approved by the Executive Director of the Department of Taxation. The written approval of the Executive Director of the Department of Taxation must be recorded in the minutes of the governing board.

2. If the Executive Director of the Department of Taxation does not approve the financing resolution, the governing board of the municipality may appeal the Executive Director's decision to the Nevada Tax Commission.

3. As used in this section, "historic structure" means a building, facility or other structure which is eligible for listing in the State Register of Historic Places under NRS 383.085.

Sec. 103. **NRS 353.335 is hereby amended to read as follows:**

353.335 1. Except as otherwise provided in subsections 5 and 6, a state agency may accept any gift or grant of property or services from any source only if it is included in an act of the Legislature authorizing expenditures of nonappropriated money or, when it is not so included, if it is approved as provided in subsection 2.

2. If:

(a) Any proposed gift or grant is necessary because of an emergency as defined in NRS 353.263 or for the protection or preservation of life or property, the Governor shall take reasonable and proper action to accept it and shall report the action and his or her reasons for determining that immediate action was necessary to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes acceptance of the gift or grant, and other provisions of this chapter requiring approval before acceptance do not apply.

(b) The Governor determines that any proposed gift or grant would be forfeited if the State failed to accept it before the expiration of the period prescribed in paragraph (c), the Governor may declare that the proposed acceptance requires expeditious action by the Interim Finance Committee. Whenever the Governor so declares, the Interim Finance Committee has 15 days after the proposal is submitted to its Secretary within which to approve or deny the acceptance. Any proposed acceptance which is not considered within the 15-day period shall be deemed approved.

(c) The proposed acceptance of any gift or grant does not qualify pursuant to paragraph (a) or (b), it must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after the proposal is submitted to its Secretary within which to consider acceptance. Any proposed acceptance which is not considered within the 45-day period shall be deemed approved.

3. The Secretary shall place each request submitted to the Secretary pursuant to paragraph (b) or (c) of subsection 2 on the agenda of the next meeting of the Interim Finance Committee.

4. In acting upon a proposed gift or grant, the Interim Finance Committee shall consider, among other things:

(a) The need for the facility or service to be provided or improved;

(b) Any present or future commitment required of the State;

(c) The extent of the program proposed; and

(d) The condition of the national economy, and any related fiscal or monetary policies.

5. A state agency may accept:

(a) Gifts, including grants from nongovernmental sources, not exceeding $10,000 each in value; and

(b) Governmental grants not exceeding $100,000 each in value,

➥ if the gifts or grants are used for purposes which do not involve the hiring of new employees and if the agency has the specific approval of the Governor or, if the Governor delegates this power of approval to the Chief of the Budget Division of the Department of Administration, the specific approval of the Chief.

6. This section does not apply to:

(a) The Nevada System of Higher Education;

(b) The Department of Health and Human Services while acting as the state health planning and development agency pursuant to paragraph (d) of

subsection 2 of NRS 439A.081 or for donations, gifts or grants to be disbursed pursuant to NRS 433.395; or

(c) Artifacts donated to the Department of ***Tourism and*** Cultural Affairs.

Sec. 104. **NRS 353.3465 is hereby amended to read as follows:**

353.3465 1. If the Director of the Department of ***Tourism and*** Cultural Affairs determines that current claims exceed the amount of money available because revenue from fees or assessments has not been collected or because of a delay in other expected receipts, he or she may request from the Director of the Department of Administration a temporary advance from the State General Fund for the payment of authorized expenses.

2. The Director of the Department of Administration shall notify the State Controller and the Fiscal Analysis Division of the Legislative Counsel Bureau of his or her approval of a request made pursuant to subsection 1. The State Controller shall draw his or her warrant upon receipt of the approval by the Director of the Department of Administration.

3. An advance from the State General Fund:

(a) May be approved by the Director of the Department of Administration.

(b) Is limited to 25 percent of the revenue expected to be received in the current fiscal year from any source other than legislative appropriation.

4. Any money which is temporarily advanced from the State General Fund pursuant to subsection 3 must be repaid by August 31 following the end of the immediately preceding fiscal year.

Sec. 105. **NRS 361A.050 is hereby amended to read as follows:**

361A.050 "Open-space use" means the current employment of land, the preservation of which use would conserve and enhance natural or scenic resources, protect streams and water supplies, maintain natural features which enhance control of floods or preserve sites designated as historic by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.*** The use of real property and the improvements on that real property as a golf course shall be deemed to be an open-space use of the land. The use of land to lease surface water rights appurtenant to the property to a political subdivision of this State for a municipal use shall be deemed to be an open-space use of the land, if the land was agricultural real property at the time the lease was granted.

Sec. 106. **NRS 376A.010 is hereby amended to read as follows:**

376A.010 As used in this chapter, unless the context otherwise requires:

1. "Open-space land" means land that is undeveloped natural landscape, including, but not limited to, ridges, stream corridors, natural shoreline, scenic areas, viewsheds, agricultural or other land devoted exclusively to open-space use and easements devoted to open-space use that are owned, controlled or leased by public or nonprofit agencies.

2. "Open-space plan" means the plan adopted by the board of county commissioners of a county to provide for the acquisition, development and use of open-space land.

3. "Open-space use" includes:

(a) The preservation of land to conserve and enhance natural or scenic resources;

(b) The protection of streams and stream environment zones, watersheds, viewsheds, natural vegetation and wildlife habitat areas;

(c) The maintenance of natural and artificially created features that control floods, other than dams;

(d) The preservation of natural resources and sites that are designated as historic by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs;]~~ ***Conservation and Natural Resources;*** and

(e) The development of recreational sites.

~~[Sec. 74.]~~ ***Sec. 107.*** Chapter 378 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[75]~~ **108, 109** and ~~[76]~~ **110** of this act.

Sec. 108. 1. The Department of Administration's Communications Fund is hereby created as an internal service fund. The Fund is a continuing fund, and its money may not revert to the State General Fund at any time.

2. Claims against the Fund which are approved by the State Library and Archives Administrator must be paid as other claims against the State are paid.

3. Claims must be made in accordance with budget and quarterly work allotments and subject to postaudit examination and approval.

~~[Sec. 75.]~~ ***Sec. 109. 1. All revenue resulting from:***

(a) Postage sold to state officers, departments and agencies; and

(b) Charges for proportionate costs of mail service operation,

➥ must be deposited in the State Treasury for credit to the Communications Fund created by NRS 331.103.

2. The formula for spreading costs of operation must be adjusted from time to time to preserve the Fund at not less than its initial level.

~~[Sec. 76.]~~ ***Sec. 110. 1. The Division shall establish and conduct a Central Mailing Room for all state officers, departments and agencies located at Carson City, Nevada.***

2. Any state officer, department or agency may use the Central Mailing Room facilities if the state officer, department or agency pays the cost of such use as determined by the Division.

3. The staff of the Central Mailing Room shall deliver incoming mail and pick up and process outgoing mail, except outgoing parcel post from the Legal Division of the Legislative Counsel Bureau, other than interoffice mail, of all state officers, departments and agencies using the Central Mailing Room facilities.

~~[Sec. 77.]~~ ***Sec. 111.*** NRS 378.005 is hereby amended to read as follows:

378.005 As used in this chapter:

1. "Department" means the Department of ~~[Cultural Affairs.]~~ ***Administration.***

2. "Director" means the Director of the Department.

3. "Division" means the Division of State Library and Archives of the Department.

~~[Sec. 78.]~~ ***Sec. 112.*** NRS 378.0083 is hereby amended to read as follows:

378.0083 The creation of ***the Division in*** the Department does not affect any bequest, devise, endowment, trust, allotment or other gift made to ~~[a division or institution of the Department]~~ ***the Division*** and those gifts inure to the benefit of the ~~[division or institution]~~ ***Division*** and remain subject to any conditions or restraints placed on the gifts.

~~[Sec. 79.]~~ ***Sec. 113.*** NRS 378.070 is hereby amended to read as follows:

378.070 The State Library and Archives Administrator may designate the hours that the State Library and Archives must be open for the use of the public . ~~[, but they must be open for at least 5 days in each week and for at least 8 hours in each day with the exception of legal holidays.]~~

~~[Sec. 80.]~~ ***Sec. 114.*** NRS 378A.040 is hereby amended to read as follows:

378A.040 1. The Governor shall appoint to the Board:

(a) The person who is in charge of the archives and records of the Division of State Library and Archives of the Department of ~~[Cultural Affairs.]~~ ***Administration.*** This person is the State Historical Records Coordinator for the purposes of 36 C.F.R. § 1206.36 and shall serve as Chair of the Board.

(b) A person in charge of a state-funded historical agency who has responsibilities related to archives or records, or to both archives and records.

(c) Seven other members, at least three of whom must have experience in the administration of historical records or archives. These members must represent as broadly as possible the various public and private archive and research institutions and organizations in the State.

2. After the initial terms, the Chair serves for 4 years and each other appointed member serves for 3 years. Members of the Board may be reappointed.

~~[Sec. 81.]~~ ***Sec. 115.*** NRS 379.0083 is hereby amended to read as follows:

379.0083 The State Library and Archives Administrator may adopt regulations establishing fees:

1. Of not more than $5 for the issuance and renewal of a certificate. The fee for issuing a duplicate certificate must be the same as for issuing the original. The money received from such fees must be paid into the State General Fund.

2. To cover the amount charged by the Federal Bureau of Investigation for processing the fingerprints of an applicant. The money received from such fees must be deposited with the State Treasurer for credit to the

appropriate account of the Division of State Library and Archives of the Department of ~~[Cultural Affairs.]~~ ***Administration.***

~~[Sec. 82.]~~ ***Sec. 116.*** NRS 380A.031 is hereby amended to read as follows:

380A.031 1. The State Council on Libraries and Literacy is hereby created. The Council is advisory to the Division of State Library and Archives of the Department of ~~[Cultural Affairs.]~~ ***Administration.***

2. The Council consists of 11 members appointed by the Governor. Unless specifically appointed to a shorter term, the term of office of a member of the Council is 3 years and commences on July 1 of the year of appointment. The terms of office of the members of the Council must be staggered to result in, as nearly as possible, the appointment of three or four members to the Council on July 1 of each year.

~~[Sec. 83.]~~ ***Sec. 117.*** NRS 380A.041 is hereby amended to read as follows:

380A.041 1. The Governor shall appoint to the Council:

(a) A representative of public libraries;

(b) A trustee of a legally established library or library system;

(c) A representative of school libraries;

(d) A representative of academic libraries;

(e) A representative of special libraries or institutional libraries;

(f) A representative of persons with disabilities;

(g) A representative of the public who uses these libraries;

(h) A representative of recognized state labor organizations;

(i) A representative of private sector employers;

(j) A representative of private literacy organizations, voluntary literacy organizations or community-based literacy organizations; and

(k) A classroom teacher who has demonstrated outstanding results in teaching children or adults to read.

2. The director of the following state agencies or their designees shall serve as ex officio members of the Council:

(a) The Department of ~~[Cultural Affairs;]~~ ***Administration;***

(b) The Department of Education;

(c) The Department of Employment, Training and Rehabilitation;

(d) The Department of Health and Human Services;

(e) The Commission on Economic Development; and

(f) The Department of Corrections.

3. Officers of State Government whose agencies provide funding for literacy services may be designated by the Governor or the Chair of the Council to serve whenever matters within the jurisdiction of the agency are considered by the Council.

4. The Governor shall ensure that there is appropriate representation on the Council of urban and rural areas of the State, women, persons with disabilities, and racial and ethnic minorities.

5. A person may not serve as a member of the Council for more than two consecutive terms.

Sec. 118. **NRS 381.001 is hereby amended to read as follows:**

381.001 As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the Administrator of the Division.

2. "Board" means the Board of Museums and History.

3. "Department" means the Department of ***Tourism and*** Cultural Affairs.

4. "Director" means the Director of the Department.

5. "Division" means the Division of Museums and History of the Department.

6. "Institution" means an institution of the Division established pursuant to NRS 381.004.

7. "Museum director" means the executive director of an institution of the Division appointed by the Administrator pursuant to NRS 381.0062.

Sec. 119. **NRS 381.002 is hereby amended to read as follows:**

381.002 1. The Board of Museums and History, consisting of eleven members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Board:

(a) ~~[Six]~~ ***Five*** representatives of the general public who are knowledgeable about museums.

(b) ~~[Five]~~ ***Six*** members representing the fields of history, prehistoric archeology, historical archeology, architectural history, and architecture with qualifications as defined by the Secretary of Interior's standards for historic preservation in the following fields:

(1) One member who is qualified in history;

(2) One member who is qualified in prehistoric archeology;

(3) One member who is qualified in historic archeology;

(4) One member who is qualified in architectural history; ~~[and]~~

(5) One member who is qualified as an architect. ~~[.]~~ ***; and***

(6) One additional member who is qualified, as defined by the Secretary of Interior's standards for historic preservation, in any of the fields of expertise described in subparagraphs (1) to (5), inclusive.

3. The Board shall elect a Chair and a Vice Chair from among its members at its first meeting of every even-numbered year. The terms of the Chair and Vice Chair are 2 years or until their successors are elected.

4. With respect to the functions of the Office of Historic Preservation, the Board may develop, review and approve policy for:

(a) Matters relating to the State Historic Preservation Plan;

(b) Nominations to the National Register of Historic Places and make a determination of eligibility for listing on the Register for each property nominated; and

(c) Nominations to the State Register of Historic Places and make determination of eligibility for listing on the Register for each property nominated.

5. With respect to the functions of the Division, the Board shall develop, review and make policy for investments, budgets, expenditures and general control of the Division's private and endowed dedicated trust funds pursuant to NRS 381.003 to 381.0037, inclusive.

6. In all other matters pertaining to the Office of Historic Preservation and the Division of Museums and History, the Board serves in an advisory capacity.

7. The Board may adopt such regulations as it deems necessary to carry out its powers and duties.

Sec. 120. **NRS 381.003 is hereby amended to read as follows:**

381.003 The Board may establish ~~[shops]~~ ***stores*** for the sale of gifts and souvenirs, such as publications, books, postcards, color slides and such other related material as, in the judgment of the Board, is appropriately connected with the operation of the institutions or the purposes of this chapter.

Sec. 121. **NRS 381.0037 is hereby amended to read as follows:**

381.0037 The Board may establish:

1. A petty cash account for the Division and each institution in an amount not to exceed $500 for each account. Reimbursement of the account must be made from appropriated money paid out on claims as other claims against the State are paid.

2. A change account for each institution for which a ~~[shop]~~ ***store*** for the sale of gifts and souvenirs has been established pursuant to NRS 381.003, in an amount not to exceed $1,500.

Sec. 122. **NRS 381.005 is hereby amended to read as follows:**

381.005 1. The Administrator is appointed by the Director. The Director shall consult with the Board before making the appointment.

2. To be qualified for appointment, the Administrator must have a degree in history or science and experience in public administration.

3. ~~[The]~~ ***Except as otherwise provided pursuant to subsection 4 of NRS 231.230, the*** Administrator is in the unclassified service of the State.

4. The Administrator may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of his or her duties.

Sec. 123. **NRS 381.0063 is hereby amended to read as follows:**

381.0063 1. The Administrator shall, in accordance with any directive received from the Director pursuant to NRS 232.005 **,** ~~[or 378.0089,]~~ authorize or require each museum director to perform such duties set forth in subsections 2 and 3 as are necessary for the operation of the institution administered by the museum director, after giving consideration to:

(a) The size and complexity of the programs the museum director is required to administer;

(b) The number of personnel needed to carry out those programs;

(c) Requirements for accreditation; and

(d) Such other factors as are relevant to the needs of the institution and the Division.

2. The Administrator may authorize or require a museum director to:

(a) Oversee duties related to the auditing and approval of all bills, claims and accounts of the institution administered by the museum director.

(b) Receive, collect, exchange, preserve, house, care for, ***document, interpret,*** display and exhibit, particularly, but not exclusively, respecting the State of Nevada:

(1) Samples of the useful and fine arts, sciences and industries, relics, memorabilia, products, works, records, rare and valuable articles and objects, including, without limitation, drawings, etchings, lithographs, photographs, paintings, statuary, sculpture, fabrics, furniture, implements, machines, geological and mineral specimens, precious, semiprecious and commercial minerals, metals, earths, gems and stones.

(2) Books, papers, records and documents of historic, artistic, literary or industrial value or interest by reason of rarity, representative character or otherwise.

(c) Collect, gather and prepare the natural history of Nevada and the Great Basin.

(d) Establish such programs in ***history,*** archeology, anthropology, paleontology, mineralogy, ethnology, ornithology and such other ~~[scientific]~~ programs as in the judgment of the Board and Administrator may be proper and necessary to carry out the objects and purposes appropriate to the institution administered by the museum director.

(e) Receive and collect property from any appropriate agency of the State of Nevada, or from accessions, gifts, exchanges, loans or purchases from any other agencies, persons or sources.

(f) House and preserve, care for and display or exhibit property received by an institution. This paragraph does not prevent the permanent or temporary retention, placement, housing or exhibition of a portion of the property in other places or locations in or outside of the State at the sole discretion of the Board.

(g) Make and obtain plans and specifications and let and supervise contracts for work or have the work done on force account or day labor, supplying material or labor, or otherwise.

(h) Receive, accept and obtain by exchange in the name of the State of Nevada all property loaned to the institution administered by the museum director for preservation, care, display or exhibit, or decline and reject the property in his or her discretion, and undertake to be responsible for all property loaned to the institution or make just payment of any reasonable costs or rentals therefor.

(i) Apply for and expend all gifts and grants that the institution administered by the museum director is authorized to accept in accordance with the terms and conditions of the gift or grant.

(j) Govern, manage and control the exhibit and display of all property and things of the institution administered by the museum director at other exhibits, expositions, world's fairs and places of public or private exhibition.

Any property of the State of Nevada that may be placed on display or on exhibition at any world's fair or exposition must be taken into custody by the Administrator at the conclusion of the world's fair or exposition and placed and kept in the institution, subject to being removed and again exhibited at the discretion of the Administrator or a person designated by the Administrator.

(k) Negotiate and consult with and agree with other institutions, departments, officers and persons or corporations of and in the State of Nevada and elsewhere respecting quarters for and the preservation, care, transportation, storage, custody, ***documentation, interpretation,*** display and exhibit of articles and things controlled by the institutions and respecting the terms and cost, the manner, time, place and extent, and the return thereof.

(l) Trade, exchange and transfer exhibits and duplicates when the Administrator deems it proper. Such transactions shall not be deemed sales.

(m) Establish the qualifications for life, honorary, annual, sustaining and such other memberships as are established by the Board pursuant to NRS 381.0045.

(n) Adopt rules for the internal operations of the institution administered by the museum director, including, without limitation, the operation of equipment of the institution.

3. The Administrator shall require a museum director to serve as, or to designate an employee to serve as, ex officio State Paleontologist. The State Paleontologist shall, within the limits of available time, money and staff:

(a) Systematically inventory the paleontological resources within the State of Nevada;

(b) Compile a database of fossil resources within this State;

(c) Coordinate and promote paleontological research activities within this State, including, without limitation, regulating and issuing permits to engage in such activities;

(d) Disseminate and assist other persons in disseminating information gained from research conducted by the State Paleontologist; and

(e) Display and promote, and assist other persons in displaying and promoting, the paleontological resources of this State to enhance education, culture and tourism within this State.

4. The enumeration of the powers and duties that may be assigned to a museum director pursuant to this section is not exclusive of other general objects and purposes appropriate to a public museum.

5. The provisions of this section do not prohibit the Administrator from making such administrative and organizational changes as are necessary for the efficient operation of the Division and its institutions and to ensure that an institution properly carries out the duties and responsibilities assigned to that institution.

Sec. 124. **NRS 381.197 is hereby amended to read as follows:**

381.197 Except for action taken under an agreement with the Office of Historic Preservation of the ***State*** Department ***of Conservation and Natural***

Resources pursuant to NRS 383.430, and except as otherwise provided in this section, a person shall not investigate, explore or excavate an historic or prehistoric site on federal or state lands or remove any object therefrom unless the person is the holder of a valid and current permit issued pursuant to the provisions of NRS 381.195 to 381.227, inclusive. Conduct that would otherwise constitute a violation of this section is not a violation of this section if it is also a violation of NRS 383.435.

Sec. 125. **NRS 381.245 is hereby amended to read as follows:**

381.245 The Nevada Historical Society shall preserve as is deemed appropriate all old and obsolete property and obsolete and noncurrent public records presented to it by the State Library and Archives Administrator from the archives and records of the Division of State Library and Archives of the Department ~~[.]~~ ***of Administration.***

Sec. 126. **NRS 383.011 is hereby amended to read as follows:**

383.011 As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the Administrator of the Office.
2. "Advisory Board" means the Board of Museums and History.
3. "Cultural resources" means any objects, sites or information of historic, prehistoric, archeological, architectural or paleontological significance.
4. "Director" means the Director of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***
5. "Office" means the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

Sec. 126.5. **NRS 383.021 is hereby amended to read as follows:**

383.021 1. The Office of Historic Preservation is hereby created.

2. The Office shall:

(a) Encourage, plan and coordinate historic preservation and archeological activities within the State, including programs to survey, record, study and preserve or salvage cultural resources.

(b) Compile and maintain an inventory of cultural resources in Nevada deemed significant by the Administrator.

(c) Designate repositories for the materials that comprise the inventory.

(d) Provide staff assistance to the Commission for Cultural Affairs of the Department of Tourism and Cultural Affairs.

3. The Comstock Historic District Commission is within the Office.

Sec. 127. **NRS 384.050 is hereby amended to read as follows:**

384.050 1. The Governor shall appoint to the Commission:

(a) One member who is a county commissioner of Storey County.

(b) One member who is a county commissioner of Lyon County.

(c) One member who is the Administrator or an employee of the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

(d) Two members who are persons licensed as general engineering contractors or general building contractors pursuant to chapter 624 of NRS or

persons who hold a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(e) Four members who are persons interested in the protection and preservation of structures, sites and areas of historic interest and are residents of the district.

2. The Commission shall elect one of its members as Chair and another as Vice Chair, who shall serve for a term of 1 year or until their successors are elected and qualified.

3. Each member of the Commission is entitled to receive a salary of not more than $80, as fixed by the Commission, for each day's attendance at a meeting of the Commission.

4. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~[Sec. 84.]~~ ***Sec. 128.*** NRS 407.057 is hereby amended to read as follows:

407.057 1. The Division shall maintain its headquarters office at Carson City, Nevada.

2. The Division may maintain such district or branch offices throughout the State as the Administrator may deem necessary to the efficient operation of the Division and the various sections thereof. The Administrator may, subject to the approval of the Director, enter into such leases or other agreements as may be necessary to the establishment of such district or branch offices. Such leases or agreements must be executed in cooperation with the Buildings and Grounds ~~[Division]~~ ***Section of the State Public Works Division*** of the Department of Administration and in accordance with the provisions of NRS 331.110.

Sec. 129. **NRS 408.210 is hereby amended to read as follows:**

408.210 1. The Director ***of the Department of Transportation*** may restrict the use of, or close, any highway whenever the Director considers the closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.

(c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the Commission on Economic Development or the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[.]~~ ***and Cultural Affairs.***

2. The Director ***of the Department of Transportation*** may:

(a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles proceeding in opposite directions or from vehicular turning movements or cross-traffic, by constructing curbs, central dividing sections

or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. The Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or the owner's agent. In lieu of personal service upon that person or agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit, and in addition thereto the sum of $100 for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, the Director may issue a license to the owner or the owner's agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from the Director to the owner of the encroachment or the owner's agent, the owner or agent may propose a time within which he or she will relocate or remove the encroachment as required. If the Director and the owner or the owner's agent agree upon such a time, the Director shall not himself remove the encroachment unless the owner or the owner's agent has failed to do so within the time agreed. If the Director and the owner or the owner's agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original notice upon the owner or the owner's agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

~~[Sec. 85.]~~ ***Sec. 130.*** NRS 412.052 is hereby amended to read as follows:

412.052 The Adjutant General:

1. Shall supervise the preparation and submission of all returns and reports pertaining to the militia of the State required by the United States.

2. Is the channel of official military correspondence with the Governor, and, on or before November 1 of each even-numbered year, shall report to the Governor the transactions, expenditures and condition of the Nevada

National Guard. The report must include the report of the United States Property and Fiscal Officer.

3. Is the custodian of records of officers and enlisted personnel and all other records and papers required by law or regulations to be filed in the office of the Adjutant General. The Adjutant General may deposit with the Division of State Library and Archives of the Department of ~~[Cultural Affairs]~~ ***Administration*** for safekeeping records of the office that are used for historical purposes rather than the administrative purposes assigned to the office by law.

4. Shall attest all military commissions issued and keep a roll of all commissioned officers, with dates of commission and all changes occurring in the commissioned forces.

5. Shall record, authenticate and communicate to units and members of the militia all orders, instructions and regulations.

6. Shall cause to be procured, printed and circulated to those concerned all books, blank forms, laws, regulations or other publications governing the militia necessary to the proper administration, operation and training of it or to carry out the provisions of this chapter.

7. Shall keep an appropriate seal of office and affix its impression to all certificates of record issued from his or her office.

8. Shall render such professional aid and assistance and perform such military duties, not otherwise assigned, as may be ordered by the Governor.

~~[Sec. 86.]~~ ***Sec. 131.*** NRS 463.028 is hereby amended to read as follows:

463.028 1. The Commission shall keep its main office at Carson City, Nevada, in conjunction with the Board in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Commission may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this state, in space to be provided by the Buildings and Grounds ***Section of the State Public Works*** Division ~~[.]~~ ***of the Department of Administration.***

~~[Sec. 87.]~~ ***Sec. 132.*** NRS 463.100 is hereby amended to read as follows:

463.100 1. The Board shall keep its main office at Carson City, Nevada, in conjunction with the Commission in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Board may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this State as the Chair of the Board deems necessary for the efficient operation of the Board ~~[. The Chair of the Board may enter into such leases or other agreements as may be necessary to establish a branch office.]~~ ***in space provided by the Buildings and Grounds Section.***

~~[Sec. 89.]~~ ***Sec. 133.*** NRS 480.160 is hereby amended to read as follows:

480.160 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director deems necessary for the efficient operation of the Department and the various divisions thereof ~~[. The Director may enter into such leases or other agreements as may be necessary to establish such branch offices.]~~ ***in space provided by the Buildings and Grounds Section.***

~~[Sec. 90.]~~ ***Sec. 134.*** NRS 481.055 is hereby amended to read as follows:

481.055 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director may deem necessary to the efficient operation of the Department and the various divisions thereof ~~[. The Director is authorized, on behalf of the Department, to enter into such leases or other agreements as may be necessary to the establishment of such branch offices.]~~ ***in space provided by the Buildings and Grounds Section.***

Sec. 135. **NRS 482.367004 is hereby amended to read as follows:**

482.367004 1. There is hereby created the Commission on Special License Plates consisting of five Legislators and three nonvoting members as follows:

(a) Five Legislators appointed by the Legislative Commission:

(1) One of whom is the Legislator who served as the Chair of the Assembly Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in place of the Legislator when absent. The alternate must be another Legislator who also served on the Assembly Standing Committee on Transportation during the most recent legislative session.

(2) One of whom is the Legislator who served as the Chair of the Senate Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in place of the Legislator when absent. The alternate must be another Legislator who also served on the Senate Standing Committee on Transportation during the most recent legislative session.

(b) Three nonvoting members consisting of:

(1) The Director of the Department of Motor Vehicles, or a designee of the Director.

(2) The Director of the Department of Public Safety, or a designee of the Director.

(3) The Director of the Department of ***Tourism and*** Cultural Affairs, or a designee of the Director.

2. Each member of the Commission appointed pursuant to paragraph (a) of subsection 1 serves a term of 2 years, commencing on July 1 of each odd-numbered year. A vacancy on the Commission must be filled in the same manner as the original appointment.

3. Members of the Commission serve without salary or compensation for their travel or per diem expenses.

4. The Director of the Legislative Counsel Bureau shall provide administrative support to the Commission.

5. The Commission shall approve or disapprove:

(a) Applications for the design, preparation and issuance of special license plates that are submitted to the Department pursuant to subsection 1 of NRS 482.367002;

(b) The issuance by the Department of special license plates that have been designed and prepared pursuant to NRS 482.367002; and

(c) Except as otherwise provided in subsection 6, applications for the design, preparation and issuance of special license plates that have been authorized by an act of the Legislature after January 1, 2007.

➥ In determining whether to approve such an application or issuance, the Commission shall consider, without limitation, whether it would be appropriate and feasible for the Department to, as applicable, design, prepare or issue the particular special license plate. The Commission shall consider each application in the chronological order in which the application was received by the Department.

6. The provisions of paragraph (c) of subsection 5 do not apply with regard to special license plates that are issued pursuant to NRS 482.3785.

7. The Commission shall:

(a) Approve or disapprove any proposed change in the distribution of money received in the form of additional fees. As used in this paragraph, "additional fees" means the fees that are charged in connection with the issuance or renewal of a special license plate for the benefit of a particular cause, fund or charitable organization. The term does not include registration and license fees or governmental services taxes.

(b) If it approves a proposed change pursuant to paragraph (a) and determines that legislation is required to carry out the change, request the assistance of the Legislative Counsel in the preparation of a bill draft to carry out the change.

Sec. 136. **NRS 482.37903 is hereby amended to read as follows:**

482.37903 1. Except as otherwise provided in this subsection, the Department, in cooperation with the Board of Museums and History of the Department of ***Tourism and*** Cultural Affairs, shall design, prepare and issue license plates which commemorate the 100th anniversary of the founding of the City of Las Vegas, using any colors and designs that the Department deems appropriate. The Department shall not design, prepare or issue the commemorative license plates unless it receives at least 250 applications for the issuance of those plates.

2. If the Department receives at least 250 applications for the issuance of the commemorative license plates, the Department shall issue those plates for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with the commemorative license plates if that person pays the fees for the personalized prestige license plates in addition to the fees for the commemorative license plates pursuant to subsections 3 and 4.

3. The fee for the commemorative license plates is $35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of $10.

4. In addition to all other applicable registration and license fees and governmental services taxes and the fee prescribed in subsection 3, a person who requests a set of the commemorative license plates must pay for the initial issuance of the plates an additional fee of $25 and for each renewal of the plates an additional fee of $20, to be distributed pursuant to subsection 5.

5. The Department shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees to the City Treasurer of the City of Las Vegas to be used to pay for projects relating to the commemoration of the history of the City of Las Vegas, including, without limitation, historical markers, tours of historic sites and improvements to or restoration of historic buildings or structures.

6. If, during a registration year, the holder of the commemorative license plates disposes of the vehicle to which the commemorative license plates are affixed, the holder shall:

(a) Retain the commemorative license plates and affix them to another vehicle that meets the requirements of this section if the ~~[transfer and registration fees are paid as set forth in this chapter; or]~~ ***holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or***

(b) Within 30 days after removing the commemorative license plates from the vehicle, return them to the Department.

~~[Sec. 91.]~~ ***Sec. 137.*** NRS 482.3792 is hereby amended to read as follows:

482.3792 1. Except as otherwise provided in this subsection, the Department ***of Motor Vehicles*** shall **, in cooperation with the Nevada Arts Council** ~~[,]~~ ***of the Department of Tourism and Cultural Affairs,*** design, prepare and issue license plates for the support of the education of children in the arts, using any colors and designs which the Department ***of Motor Vehicles*** deems appropriate. The Department ***of Motor Vehicles*** shall not design, prepare or issue the license plates unless it receives at least 250 applications for the issuance of those plates.

2. The Department ***of Motor Vehicles*** may issue license plates for the support of the education of children in the arts for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with license plates for the support of the education of children in the arts if that person pays the fee for the personalized prestige license plates in addition to the fees for the license plates for the support of the education of children in the arts pursuant to subsections 3 and 4.

3. The fee for license plates for the support of the education of children in the arts is $35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of $10.

4. In addition to all fees for the license, registration and governmental services taxes, a person who requests a set of license plates for the support of the education of children in the arts must pay for the initial issuance of the plates an additional fee of $15 and for each renewal of the plates an additional fee of $10 to finance programs which promote the education of children in the arts.

5. **The** ~~*[Except as otherwise provided in NRS 482.38279, the]*~~ Department ***of Motor Vehicles*** shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the **Account for License Plates for the Support of the Education of Children in the Arts created pursuant to NRS 233C.094.** ~~*[State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees deposited pursuant to this subsection to VSA arts of Nevada or its successor for its programs and activities in support of the education of children in the arts.]*~~

6. If, during a registration year, the holder of license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder ~~[may retain]~~ ***shall:***

(a) Retain the plates and ~~[~~.

~~(a) Affix]~~ ***affix*** them to another vehicle which meets the requirements of this section if the ~~[transfer and registration fees are paid as set out in this chapter; or]~~ ***holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or***

(b) Within 30 days after removing the plates from the vehicle, return them to the Department ~~[.]~~ ***of Motor Vehicles.***

~~[Sec. 92.]~~ ***Sec. 138.*** NRS 561.235 is hereby amended to read as follows:

561.235 1. The Department shall maintain a principal office and may maintain district or branch offices throughout the State if they are necessary for the efficient operation of the Department.

2. The Director shall select the location of those offices and may enter into such leases or other agreements as may be necessary to establish them. The leases or agreements must be executed in cooperation with the Buildings and Grounds ~~[Division]~~ ***Section of the State Public Works Division*** of the Department of Administration and in accordance with the provisions of NRS 331.110.

~~[Sec. 93.]~~ ***Sec. 139.*** Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Office of Energy shall establish a program to track the use of energy in buildings owned by the State and in other buildings which are occupied by a state agency.

2. The program established pursuant to this section must:

(a) Record utility bills for each building for each month and preserve those records indefinitely;

(b) Allow for the comparison of utility bills for a building from month to month and year to year;

(c) Allow for the comparison of utility bills between buildings, including comparisons between similar buildings or types of buildings;

(d) Allow for adjustments to the information based upon variations in weather conditions, the length of the billing period and other changes in relevant conditions;

(e) Facilitate identification of errors in utility bills and meter readings;

(f) Allow for the projection of costs for energy for a building; and

(g) Identify energy and cost savings associated with efforts to conserve energy.

3. The Office of Energy may apply for any available grants and accept any gifts, grants or donations to assist in establishing and carrying out the program.

4. In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the Interim Finance Committee may determine an amount of money to be used by the Office of Energy to fulfill the requirements of subsection 1.

5. To the extent that there is not sufficient money available for the support of the program, each state agency that occupies a building in which the use of energy is tracked pursuant to the program shall reimburse the Office of Energy for the agency's proportionate share of the unfunded portion of the cost of the program. The reimbursement must be based upon the energy consumption of the respective state agencies that occupy buildings in which the use of energy is tracked.

~~[Sec. 94.]~~ ***Sec. 140.*** NRS ~~[233C.010, 233C.011, 233C.013, 233C.015, 233C.017, 233C.019, 233C.020, 233C.025, 233C.030, 233C.040, 233C.050, 233C.060, 233C.070, 233C.090, 233C.091, 233C.092, 233C.094, 233C.095, 233C.096, 233C.097,]~~ **231.280, 231.350,** 233C.100, ~~[233C.110, 233C.200, 233C.210, 233C.220, 233C.225, 233C.230,]~~ 233F.058, 242.041, 331.040, 331.095, **331.103,** 331.104, 331.105, 341.015, 341.149, ~~[353.3465,]~~ 378.008,

378.0086 [,] **and** 378.0089 [, ~~381.001, 381.002, 381.003, 381.0031, 381.0033, 381.0035, 381.0036, 381.0037, 381.004, 381.0045, 381.005, 381.006, 381.0061, 381.0062, 381.0063, 381.0064, 381.0075, 381.008, 381.009, 381.195, 381.197, 381.199, 381.201, 381.203, 381.205, 381.207, 381.209, 381.211, 381.213, 381.215, 381.217, 381.219, 381.221, 381.223, 381.225, 381.227, 381.245, 381.255, 383.011, 383.021, 383.031, 383.041, 383.075, 383.081, 383.085, 383.091, 383.101, 383.111, 383.121, 383.125, 383.150, 383.160, 383.170, 383.180, 383.190, 383.400, 383.405, 383.410, 383.415, 383.420, 383.425, 383.430, 383.435 and 383.440~~] are hereby repealed.

~~[Sec. 95.]~~ ***Sec. 141.*** ~~[1. Any balance remaining in the Account for License Plates for the Support of the Education of Children in the Arts created by NRS 233C.094 that has not been committed for expenditure before July 1, 2011, must be remitted to VSA arts of Nevada or its successor.~~

~~2. Any balance remaining in the Nevada Cultural Fund created by NRS 233C.095 that has not been committed for expenditure before July 1, 2011, must be reverted to the State General Fund.~~

~~3.]~~ Any balance remaining in the Account for Local Cultural Activities created by NRS 233C.100 that has not been committed for expenditure before ~~[July]~~ **October** 1, 2011, must be reverted to the State General Fund.

~~[4. The proceeds of any bonds issued pursuant to NRS 233C.225 that have not been committed for expenditure before July 1, 2011, must be transferred to the State General Fund.~~

~~5. Any balance remaining in the Fund for the Preservation and Promotion of Cultural Resources created by NRS 233C.230 that has not been committed for expenditure before July 1, 2011, must be reverted to the State General Fund.~~

~~6. Any balance remaining in the Division of Museums and History Dedicated Trust Fund established pursuant to NRS 381.0031 that has not been committed for expenditure before July 1, 2011, must be reverted to the State General Fund.~~

~~7. Any balance remaining in the Fund for the Support of the Division of Museums and History of the Department of Cultural Affairs created by NRS 381.0064 that has not been committed for expenditure before July 1, 2011, must be reverted to the State General Fund.]~~

Sec. 141.5. **For Fiscal Years 2011-2012 and 2012-2013, the Administrator of the Division of Tourism of the Department of Tourism and Cultural Affairs, appointed pursuant to section 8.5 of this act, is entitled to receive an approximate annual salary of not more than $95,453.**

Sec. 142. **There is hereby appropriated from the State General Fund to the Department of Cultural Affairs the sum of $150,806 for the purpose of offsetting lower than projected admission revenue related to reductions from the State General Fund made by section 6 of chapter 10, Statutes of Nevada 2010, 26th Special Session, at page 68. Money**

appropriated pursuant to this section is in addition to, and must not be used to replace or supplant, any money that was appropriated by section 19 of chapter 388, Statutes of Nevada 2009, at page 2108.

Sec. 143. **There is hereby appropriated from the State General Fund to the Department of Cultural Affairs the sum of $36,848 for the purpose of the retirements of employees of the Division of Museums and History of the Department. Money appropriated pursuant to this section is in addition to, and must not be used to replace or supplant, any money that was appropriated by section 19 of chapter 388, Statutes of Nevada 2009, at page 2108.**

Sec. 143.5. **Notwithstanding any other provision of law to the contrary, a person who has been appointed to or is otherwise incumbent in one of the following positions as of October 1, 2011, is in the classified service of the State and must remain in the classified service of the State until he or she vacates the relevant position:**

1. The heads of the units and offices of the Division of Enterprise Information Technology Services of the Department of Administration.

2. The Administrator of the Nevada Arts Council of the Department of Tourism and Cultural Affairs.

3. The Administrator of the Division of Museums and History of the Department of Tourism and Cultural Affairs.

4. The Administrator of the Office of Historic Preservation of the State Department of Conservation and Natural Resources.

Sec. 144. **1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.**

2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

Sec. 145. **1. If the name of a fund or account is changed pursuant to the provisions of this act, the State Controller shall change the**

designation of the name of the fund or account without making any transfer of the money in the fund or account. The assets and liabilities of a such a fund or account are unaffected by the change of the name.

2. The assets and liabilities of any fund or account transferred from the Department of Cultural Affairs to the Department of Tourism and Cultural Affairs are unaffected by the transfer.

Sec. 146. **The amendatory provisions of this act do not affect the current term of appointment of any person who, on October 1, 2011, is a member of the Commission on Tourism, the Board of the Nevada Arts Council of the Department of Cultural Affairs, the Commission for Cultural Affairs of the Department of Cultural Affairs, the Board of Museums and History of the Department of Cultural Affairs or the Division of Museums and History of the Department of Cultural Affairs.**

~~[Sec. 96.]~~ ***Sec. 147.*** The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change or remove, as applicable, any references to an officer, agency or other entity:

(a) Whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

(b) Whose responsibilities are eliminated pursuant to the provisions of this act.

2. In preparing supplements to the Nevada Administrative Code, appropriately change or remove, as applicable, any references to an officer, agency or other entity:

(a) Whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

(b) Whose responsibilities are eliminated pursuant to the provisions of this act.

~~[Sec. 97.]~~ ***Sec. 148.*** **1.** This **section and sections 143 and 144 of this** act ~~[becomes]~~ **become** effective ~~[on July]~~ **upon passage and approval.**

2. Sections 8.5 and 142.5 of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections, including, without limitation, recruitment, selecting appointees, making appointments, and moving offices and equipment; and

(b) On July 1, 2011, for all other purposes.

3. Sections 1 to 8, inclusive, 9 to 142, inclusive, and 144.5 to 148, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections, including, without limitation, recruitment,

selecting appointees, making appointments, and moving offices and equipment; and

(b) On October 1, 2011 **[.] , for all other purposes.**

LEADLINES OF REPEALED SECTIONS

[~~233C.010 Definitions.~~

~~233C.011 "Administrator" defined.~~

~~233C.013 "Board" defined.~~

~~233C.015 "Commission" defined.~~

~~233C.017 "Department" defined.~~

~~233C.019 "Division" defined.~~

~~233C.020 Legislative declaration.~~

~~233C.025 Creation; cooperation with state agencies.~~

~~233C.030 Board: Creation; number of members.~~

~~233C.040 Board members: Appointment; qualifications; term; removal.~~

~~233C.050 Board members: Salary; per diem allowance and travel expenses.~~

~~233C.060 Board meetings: Frequency; quorum; one vote per member.~~

~~233C.070 Board officers; terms.~~

~~233C.090 Board: Duties; regulations.~~

~~233C.091 Administrator: Selection; qualifications; duties and powers.~~

~~233C.092 Periodic examination of and report on physical condition of works of art acquired for inclusion in public works.~~

~~233C.094 Creation; use of money in Account.~~

~~233C.095 Creation; purpose; investment; acceptance of gifts, grants and donations for deposit in Fund; transfer of money from Fund to meet obligations of State.~~

~~233C.096 Administration and expenditure of money in Fund.~~

~~233C.097 Regulations; report to Legislature.~~**]**

231.280 Powers and duties.

231.350 Committee: Creation; composition; vacancies; removal; compensation of members; meetings; administrative support.

233C.100 Creation; administration.

[~~233C.110 Expenditure of money; employment of performers or technicians.~~

~~233C.200 Creation; members; meetings; quorum; compensation and reimbursement; administrative services.~~

~~233C.210 Plan for preservation and promotion of Nevada's cultural resources.~~

~~233C.220 Program for Awarding Financial Assistance.~~

~~233C.225 Determination of annual amount of financial assistance to be granted by Commission; notice to State Board of Examiners and State Board of Finance; issuance of bonds.~~

~~233C.230 Fund for Preservation and Promotion of Cultural Resources.~~**]**

233F.058 "Director" defined.

242.041 "Director" defined.

331.040 Qualifications of Chief.

331.095 Program to track use of energy in buildings owned by State or occupied by state agency.

331.103 Department of Administration's Communications Fund: Creation; claims.

331.104 Department of Administration's Communications Fund: Revenue.

331.105 Central Mailing Room: Establishment; maintenance.

341.015 "Manager" defined.

341.149 Funding required for operation and maintenance of capital improvement.

~~[353.3465 Temporary advance from State General Fund for authorized expenses of Department of Cultural Affairs.]~~

378.008 Creation; composition.

378.0086 Director: Appointment and qualifications.

378.0089 Director: Powers and duties.

~~[381.001 Definitions.~~

~~381.002 Creation; qualifications of members; Chair and Vice Chair; powers and duties; regulations.~~

~~381.003 Establishment of shops for sale of gifts and souvenirs.~~

~~381.0031 Private money; Dedicated Trust Fund.~~

~~381.0033 Budgeting, expenditure and accounting of money in Dedicated Trust Fund.~~

~~381.0035 Private money exempt from statutory requirements governing expenditure of public money; independent contractors.~~

~~381.0036 Legislative appropriations.~~

~~381.0037 Petty cash accounts; change accounts.~~

~~381.004 Creation; composition; general duties of institutions.~~

~~381.0045 Establishment of categories of and fees for membership in institutions; fees for admission and train rides; policies and charges for use of property.~~

~~381.005 Administrator: Appointment; qualifications; classification; employment of staff.~~

~~381.006 Administrator: Powers and duties.~~

~~381.0061 Administrator: Adoption of regulations.~~

~~381.0062 Museum directors: Appointment and establishment of powers and duties by Administrator; classification; duty to exercise and carry out assigned powers and duties.~~

~~381.0063 Museum directors: Powers and duties.~~

~~381.0064 Fund for Support of Division of Museums and History: Creation; use of interest and income; transfer of money to State General Fund; annual submission of itemized statement.~~

~~381.0075 Acceptance of gifts.~~

~~381.008 Sale of duplicates, surplus and inappropriate items; use of proceeds.~~

~~381.009 Acquisition of abandoned property held by institution.~~

~~381.195 Definitions.~~

~~381.197 Permit required to investigate, explore or excavate historic or prehistoric site; applicability of penalties.~~

~~381.199 Applicant for permit required to secure state and federal permits.~~

~~381.201 Museum Director may designate state agency as agent to issue permits; agency may adopt regulations.~~

~~381.203 Qualifications of applicant for permit; contents of application; regulations.~~

~~381.205 Notice to certain officers when permit granted.~~

~~381.207 Percentage of articles, implements and materials found or discovered by certain holders of permits to be given to state institutions and political subdivisions.~~

~~381.209 Permit: Limitations and conditions.~~

~~381.211 Permit: Renewal.~~

~~381.213 Permit: Conditions for voiding.~~

~~381.215 Report of holder of permit to Museum Director.~~

~~381.217 Collections of petrified wood authorized; limitations.~~

~~381.219 Collection of certain minerals and artifacts and photography not prohibited.~~

~~381.221 Enforcement by Division of State Parks, sheriffs and other peace officers.~~

~~381.223 Seizure and forfeiture of object of antiquity taken without permit.~~

~~381.225 Acts of vandalism unlawful; penalty.~~

~~381.227 Penalty.~~

~~381.245 Preservation of old and obsolete property and public records from Division of State Library and Archives.~~

~~381.255 State publications to be donated for deposit in Society's collections.~~

~~383.011 Definitions.~~

~~383.021 Creation of Office of Historic Preservation; duties; inclusion of Comstock Historic District Commission within Office.~~

~~383.031 Administrator: Qualifications.~~

~~383.041 Administrator: Duties; employment of personnel.~~

~~383.075 Administrator: Establishment of stewardship program; selection and training of volunteers; powers of program; acceptance of gifts and grants.~~

~~383.081 Preparation and contents of plan for statewide historic preservation; federal financial assistance.~~

~~383.085 State Register of Historic Places.~~

~~383.091 Program for historical markers.~~

~~383.101 Grants, gifts and donations; payment for services rendered.~~

~~383.111 Contracts: Historic preservation and archeological activities; expenses for overhead.~~

~~383.121 Intergovernmental cooperation required.~~

~~383.125 Programs by certain nonprofit organizations to raise money to benefit historic places; prohibitions; regulations.~~

~~383.150 Definitions.~~

~~383.160 Duties of Office of Historic Preservation.~~

~~383.170 Procedure upon discovery of Indian burial site; permissible excavation.~~

~~383.180 Prohibited acts; penalties; exceptions.~~

~~383.190 Civil remedy.~~

~~383.400 Definitions.~~

~~383.405 "Historic site" defined.~~

~~383.410 "Political subdivision" defined.~~

~~383.415 "Prehistoric site" defined.~~

~~383.420 "State agency" defined.~~

~~383.425 "State land" defined.~~

~~383.430 Office of Historic Preservation authorized to enter into agreement with state agency or political subdivision regarding acquisition of land from Federal Government; requirements of agreement; submission of information to Office required for changes to use of land or new project on land.~~

~~383.435 Prohibited acts; penalties; exceptions; civil remedy.~~

~~383.440 Regulations.~~]

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

In the Executive Budget, the Governor recommends dissolving various departments and reorganizing the remaining components under current State agencies. Senate Bill No. 427, as amended, makes the statutory changes necessary to implement the reorganization. The bill repeals sections of NRS 378 to provide for the dissolution of the Department of Cultural Affairs and the reorganization of the former Department's four divisions. The State Historic Preservation Office would be placed under the Department of Conservation and Natural Resources and the Division of State Library and Archives would be placed under the Department of Administration.

In addition to transferring the Nevada State Library and Archives Division to the Department of Administration, Senate Bill No. 427, as amended, also changes current State departments to divisions and merges the new divisions under the Department of Administration. This bill converts the Department of Personnel into the new Division of Human Resource Management; and reclassifies several positions within that function.

The bill provides for the Director of Administration to appoint an Administrator for each of the divisions and adds each division to the Department of Administration's Operating Fund for Administrative Services, an internal service fund.

This bill revises NRS 223 to provide that the Governor may appoint a Chief Information Officer of the State and designate the Administrator of the Division of Enterprise Information Technology Services as the State Chief Information Officer.

The bill restricts the powers and duties of the State Public Works Board, such that the Board will only be empowered to make recommendations concerning the priority of construction for the State's Capital Improvement Program, adopt regulations, and preside over certain appeals. Various other powers and duties of the Board are reassigned.

Senate Bill No. 427 provides for the creation of a Division of Tourism Administrator position appointed by the Director of the Department and responsible for the administration of the Division of Tourism.

The bill contains two supplemental appropriations to the Department of Cultural Affairs not provided for in the Executive Budget to offset lower than projected admission revenue from the State museums and the Division of Museums and History.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 428.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 935.

"SUMMARY—Makes an appropriation to the State Gaming Control Board to replace computer and technology hardware. (BDR S-1243)"

"AN ACT making an appropriation to the State Gaming Control Board to replace computer and technology hardware; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the State Gaming Control Board the sum of ~~[$1,256,104]~~ **$719,957** for the replacement of computer and technology hardware to ensure continuity in operations and continued security.

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

Sec. 3. This act becomes effective upon passage and approval.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Amendment No. 935 to Senate Bill No. 428 reduces the appropriation from $1.2 million to $719,000 for the equipment needed for the Gaming Control Board.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 473.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 936.

"SUMMARY—Revises provisions governing consumer affairs. (BDR 18-1190)"

"AN ACT relating to the reorganization of State Government; ~~[eliminating the Office of Ombudsman of Consumer Affairs for Minorities; making permanent]~~ **continuing** the transfer of the powers and duties of the Consumer Affairs Division of the Department of Business and Industry and the Commissioner of Consumer Affairs to the Office of the Attorney General; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[The Office of Ombudsman of Consumer Affairs for Minorities in the Office of the Director of the Department of Business and Industry was made a permanent position by the 75th Session of the Nevada Legislature. (Chapter 335 of Statutes of Nevada 2009, p. 1502) This bill eliminates the Office of Ombudsman of Consumer Affairs for Minorities.]~~

The 75th Session of the Nevada Legislature temporarily eliminated the Consumer Affairs Division of the Department **of Business and Industry** and the Commissioner of Consumer Affairs for the 2009-2011 biennium and transferred the powers and duties of the Division and the Commissioner to the Office of the Attorney General. (Chapter 475, Statutes of Nevada 2009, pp. 2695-2733) This bill ~~[makes permanent]~~ **continues for the 2011-2013 biennium the temporary elimination of the Division and the Commissioner and** the transfer of the powers and duties of the Division and the Commissioner to the Office of the Attorney General.

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

Section 1. ~~[NRS 232.505 is hereby amended to read as follows:~~

~~232.505 As used in NRS 232.505 to [232.845,] 232.840, inclusive, unless the context requires otherwise:~~

~~1. "Department" means the Department of Business and Industry.~~

~~2. "Director" means the Director of the Department.]~~ **(Deleted by amendment.)**

Sec. 2. Section 80 of chapter 475, Statutes of Nevada 2009, at page 2733, is hereby amended to read as follows:

Sec. 80. **1.** This section and sections 1 to 35, inclusive, 36 to 57, inclusive, and 58 to 79, inclusive, of this act become effective on July 1, 2009.

2. The amendatory provisions of sections 3, 4, 36 to 51, inclusive, 57, 58 to 75, inclusive, and subsection 2 of section 77 of this act expire by limitation on June 30, [~~2011.~~] *2013.*

3. Sections 35.1 to 35.95, inclusive, and 57.5 of this act become effective on July 1, [~~2011.~~**] *2013.***

Sec. 3. ~~[1. NRS 232.845 is hereby repealed.~~

~~2. Sections 35.1, 35.2, 35.3, 35.4, 35.5, 35.6, 35.7, 35.8, 35.9, 35.95 and 57.5 of chapter 475, Statutes of Nevada 2009, at pages 2709-12 and 2721, are hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 4. 1. This section and sections 2 and 3 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on July 1, 2011.~~[~~

~~TEXT OF REPEALED SECTION OF NRS AND REPEALED SECTIONS OF STATUTES OF NEVADA~~

~~232.845 Creation; duties of Ombudsman; appointment and classification of Ombudsman.~~

~~1. The Office of Ombudsman of Consumer Affairs for Minorities is hereby created within the Office of the Director. The Ombudsman shall:~~

~~(a) Provide for continued educational, outreach and service programs for minority groups pertaining to consumer fraud; and~~

~~(b) Assist the Nevada Commission on Minority Affairs created by NRS 232.852.~~

~~2. The Director shall appoint the Ombudsman of Consumer Affairs for Minorities.~~

~~3. The Ombudsman of Consumer Affairs for Minorities is:~~

~~(a) In the unclassified service of the State.~~

~~(b) Directly responsible to the Director.~~

~~Section 35.1 of chapter 475, Statutes of Nevada 2009, at page 2709:~~

~~Sec. 35.1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 35.2 to 35.95, inclusive, of this act.~~

~~Section 35.2 of chapter 475, Statutes of Nevada 2009, at page 2709:~~

~~Sec. 35.2. 1. Each organization for buying goods or services at a discount regulated by the provisions of this section, NRS 598.840 to 598.930, inclusive, and sections 35.3, 35.4 and 35.5 of this act shall apply for registration on the form prescribed by the Division.~~

~~2. At the time of application for registration, the applicant must pay to the Division an administrative fee of $25 and deposit the required security with the Division.~~

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

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

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

~~4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.~~

~~Section 35.3 of chapter 475, Statutes of Nevada 2009, at page 2709:~~

~~Sec. 35.3. 1. Each registrant shall deposit with the Division:~~

~~(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;~~

~~(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or~~

~~(c) A certificate of deposit in a financial institution which is doing business in this State and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the registrant.~~

~~2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.~~

~~3. If the registrant deposits a bond, the registrant shall keep accurate records of the bond and the payments made on the premium. The records must be open to inspection by the Division during business hours. The registrant shall notify the Division not later than 30 days before the date of expiration of the bond and provide written proof of the renewal of the bond to the Division.~~

~~4. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.~~

~~5. A registrant may change the form of security which he has deposited with the Division. If the registrant changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the registrant as security for claims arising during the time the previous security was in effect.~~

~~6. If the amount of the deposited security falls below the amount required by this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act for that security, the registrant shall be deemed not to be registered as required by section 35.2 of this act for the purposes of this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.~~

~~Section 35.4 of chapter 475, Statutes of Nevada 2009, at page 2710:~~

~~Sec. 35.4. 1. The security required to be deposited by a registrant pursuant to section 35.3 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.~~

~~2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.~~

~~3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.~~

~~4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.~~

~~5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.~~

~~Section 35.5 of chapter 475, Statutes of Nevada 2009, at page 2710:~~

~~Sec. 35.5. 1. If no claims have been filed against the security deposited with the Division pursuant to section 35.3 of this act within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the Commissioner shall release the security to the registrant and shall not audit any claims filed against the security thereafter by consumers.~~

~~2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.~~

~~3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.~~

~~Section 35.6 of chapter 475, Statutes of Nevada 2009, at page 2711:~~

~~Sec. 35.6. "Registrant" means a dance studio or a health club which is required to register and post security with the Division pursuant to the provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.7 to 35.95, inclusive, of this act.~~

~~Section 35.7 of chapter 475, Statutes of Nevada 2009, at page 2711:~~

~~Sec. 35.7. 1. Each dance studio and health club regulated by the provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.8, 35.9 and 35.95 of this act shall apply for registration on the form prescribed by the Division.~~

~~2. At the time of application for registration, the applicant must pay to the Division an administrative fee of $25 and deposit the required security with the Division.~~

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

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

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

~~4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.~~

Section 35.8 of chapter 475, Statutes of Nevada 2009, at page 2711:

Sec. 35.8. 1. Each registrant shall deposit with the Division:

(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;

(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or

(c) A certificate of deposit in a financial institution which is doing business in this State and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the registrant.

2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.

3. If the registrant deposits a bond, the registrant shall keep accurate records of the bond and the payments made on the premium. The records must be open to inspection by the Division during business hours. The registrant shall notify the Division not later than 30 days before the date of expiration of the bond and provide written proof of the renewal of the bond to the Division.

4. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.

5. A registrant may change the form of security which he has deposited with the Division. If the registrant changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the registrant as security for claims arising during the time the previous security was in effect.

6. If the amount of the deposited security falls below the amount required by this chapter for that security, the registrant shall be deemed not to be registered as required by section 35.7 of this act for the purposes of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.

Section 35.9 of chapter 475, Statutes of Nevada 2009, at page 2712:

Sec. 35.9. 1. The security required to be deposited by a registrant pursuant to section 35.8 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.

2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.

3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the

~~action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.~~

~~4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.~~

~~5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.~~

~~Section 35.95 of chapter 475, Statutes of Nevada 2009, at page 2712:~~

~~Sec. 35.95. 1. If no claims have been filed against the security deposited with the Division pursuant to section 35.8 of this act within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the Commissioner shall release the security to the registrant and shall not audit any claims filed against the security thereafter by consumers.~~

~~2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.~~

~~3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.~~

~~Section 57.5 of chapter 475, Statutes of Nevada 2009, at pages 2721-22:~~

~~Sec. 57.5. NRS 598.840 is hereby amended to read as follows:~~

~~598.840 As used in NRS 598.840 to 598.930, inclusive, and sections 35.2 to 35.5, inclusive, of this act, unless the context otherwise requires:~~

~~1. "Affiliate organization" means an organization for buying goods or services at a discount that:~~

~~(a) Is a subsidiary of a parent business entity; or~~

~~(b) Operates under a franchise granted by a parent business entity.~~

~~2. "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day and Christmas Day.~~

~~3. "Buyer" means a person who purchases by contract a membership in an organization for buying goods or services at a discount.~~

~~4. "Commissioner" means the Commissioner of the Consumer Affairs Division.~~

~~5. "Division" means the Consumer Affairs Division of the Department of Business and Industry.~~

~~6. "Franchise" has the meaning ascribed to it in 16 C.F.R. § 436.2, as amended or substituted in revision by the Federal Trade Commission.~~

~~[5.] 7. "Organization for buying goods or services at a discount" or "organization" means a person who, for a consideration, provides or claims to provide a buyer with the ability to purchase goods or services at a price which is represented to be lower than the price generally charged in the area. The term includes, without limitation, an affiliate organization.~~

~~[6.] 8. "Parent business entity" or "parent" means any business entity that, directly or indirectly, has owned, operated, controlled or granted franchises to, in any combination thereof, at least 15 organizations or affiliate organizations for a consecutive period of 5 years or more.~~

~~[7.] 9. "Registrant" means an organization for buying goods or services at a discount which is required to register and post security with the Division pursuant to the provisions of NRS 598.840 to 598.930, inclusive, and sections 35.2 to 35.5, inclusive, of this act.~~

~~10. "Subsidiary" means an organization for buying goods or services at a discount that is owned, operated or controlled, either directly or indirectly or in whole or in part, by a parent business entity.]~~

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Senate Bill No. 473, as amended, retains the Office of the Ombudsman of Consumer Affairs for Minorities within the Office of the Director of the Department of Business and Industry. The legislation, as amended, continues the temporary elimination of the Consumer Affairs Division of the Department of Business and Industry for the 2011-13 biennium, and the transfer of those duties to the Office of the Attorney General, as approved by the 2009 75th Legislature.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 579.

Bill read third time.

Remarks by Senators Horsford, Schneider and Roberson.

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

SENATOR HORSFORD:

Thank you, Mr. President. I think it is important to have some discussion on Assembly Bill No. 579. I invite my colleagues who are going to vote "no" to offer a final argument to the public as to why they are going to do so.

Regarding our State's budget, the truth is that the Supreme Court's decision made the already worst-case scenario a disaster. I want to thank my colleagues and the Governor who understand that reality. I want to thank them for coming to the table to find the middle ground and the balanced solution we have talked about from the beginning of the Session. No one got exactly

what he or she wanted. The sobering reality is that this budget saves what would have been a sinking ship. It funds education responsibly which is a victory for our State, but, at the same time, it would be a gross understatement to say that there is room for improvement.

Mr. President, I would like to commend the Governor. I did not know how he would respond or how he would react in the hours after that Supreme Court ruling. Initially, when we first convened I did not know where we would end up. But, despite the outcome, I am proud that the Governor took the helm of the situation, did not ignore the facts, and he did what a good Governor should do. He brought us together to resolve the State's problems in a responsible way, first, by helping us to understand both the short and long-term implications of that decision and, ultimately, he brought us together to try to reach an agreement that was fair and balanced to each side.

It is always hard to explain to people that it could have been worse. Right now, that is the truth. People may say the Democrats won or lost or the Republicans won or lost, that liberals and conservatives may be mad at their party for not holding the line. To the Senator, from Washoe District No. 4, I, also, have gotten my share of hate e-mails. I have gotten e-mails that have asked why I did not hold the line, and why I was willing to say "yes" to the agreement that was reached. There is a point where the politics ceases to matter in a situation. For me, that point is at education. This budget is not perfect, but it will maintain adequate funding for our schools, funding that this Legislature has restored with agreement with the Governor. We will have the funds to improve our crumbling schools. We will have safe students and teachers in already overcrowded classrooms. We will restore per pupil spending to reasonable levels. I am happy to vote "yes" on this budget to keep my promise to the Nevada families that we will prevent deep cuts to education because we were willing to find that middle ground and a balanced solution.

I urge the body's adoption and approval of Assembly Bill No. 579. I encourage those members to explain to the public why they support it or why they do not.

SENATOR SCHNEIDER:

Let me begin by saying, I will reluctantly and sadly, be voting for this budget. I am doing so because I do not want to disrespect and dismiss the hard work done by the Majority Leader and the members of the Finance and Revenue Committees.

However, in my 20th and final year of legislative service, I would not be honest with you or myself if I did not express my profound disappointment that yet another legislative session will end without making any significant advances in our schools or meaningful investment in our children.

Let us be clear and honest. We passed reforms that may allow us to identify and deal with the small number of underperforming teachers in our schools, but cut the pay of every teacher in Nevada. Where is the balance in that? How does that encourage smart and willing young people to pursue a career in education? Clearly, it does not.

How does a reduction in per pupil spending reflect a commitment to improve our children's learning? How does a budget that cuts spending in schools and universities reflect an investment in the youth of our State? It does not.

In that very nicely staged press conference with the Governor the other day, we announced a deal, not a plan, not a blueprint, not a vision for our future, but a deal. A phrase used when bargaining with a used car salesman, I fear we bought a clunker.

In this case, the deal was based purely on an arbitrary number set by the political winds, the swirling political winds of the day.

For months we have listened to the pleas of the education community, to parents with autistic children, to Nevadans who have to raise their children and care for their elderly parents, to health care givers, neglected and abused children's case workers, first responders and others.

Despite the economic hardships of the past several years, industry leaders throughout Nevada have stepped forward to offer support in responding to our needs and to investing in our State's future. Representatives from banking, health care, gaming, mining and technology all testified repeatedly, urging us to pass fair, stable and broad based taxes, but, instead, we made a deal.

Again, I will vote for this deal because, in this political environment, I have been told this is the best we can do.

Really? The best we can do? How sad.

SENATOR ROBERSON:

Since the Majority Leader invited some of us who may be voting "no" on this to speak, I will speak briefly, now, but I will speak at length when we get to the revenue bill because all of these bills, Senate Bill Nos. 503, 504, 505 and Assembly Bill Nos. 579 and 580 are tied together. You cannot do these unless you have the money to pay for them. I do not want you to think for a second that there are not people in this room who feel just as passionately as you do about these issues. I appreciate the invitation to speak. I will be voting "no" on this. I will speak at length on these issues when we get to the revenue bill.

Roll call on Assembly Bill No. 579:

YEAS—15.

NAYS—Brower, Cegavske, Gustavson, Halseth, Roberson, Settelmeyer—6.

Assembly Bill No. 579 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 580.

Bill read third time.

Roll call on Assembly Bill No. 580:

YEAS—15.

NAYS—Brower, Cegavske, Gustavson, Halseth, Roberson, Settelmeyer—6.

Assembly Bill No. 580 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 137.

Bill read third time.

Roll call on Assembly Bill No. 137:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, McGinness, Rhoads, Roberson, Settelmeyer—9.

Assembly Bill No. 137 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 167.

Bill read third time.

Roll call on Assembly Bill No. 167:

YEAS—21.

NAYS—None.

Assembly Bill No. 167 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 171.

Bill read third time.

Remarks by Senator Denis.

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

Thank you, Mr. President. Assembly Bill No. 171 revises procedures to apply to establish a charter school and to amend the charter of an existing school.

We have two major charter school bills. This is the clean-up bill. It fixes things we have realized during the past few years needed fixing. I urge your support.

Roll call on Assembly Bill No. 171:
YEAS—21.
NAYS—None.

Assembly Bill No. 171 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 228.

Bill read third time.

Roll call on Assembly Bill No. 228:
YEAS—21.
NAYS—None.

Assembly Bill No. 228 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 245.

Bill read third time.

Roll call on Assembly Bill No. 245:
YEAS—21.
NAYS—None.

Assembly Bill No. 245 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 259.

Bill read third time.

The following amendment was proposed by Senator Wiener:

Amendment No. 950.

"SUMMARY—Requires a portion of certain existing fees to be used for certain programs for legal services. (BDR 2-817)"

"AN ACT relating to legal services; requiring a portion of certain existing fees to be used for certain programs for legal services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain fees to be charged and collected in civil actions and provides that such fees must only be used for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment, technology and, in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs. (NRS 19.0302) **Section 1** of this bill authorizes such fees to also be used to support legal services for the indigent in counties whose

population is less than 100,000. **Section 1** also provides that, in counties whose population is 100,000 or more, (currently Clark and Washoe Counties) ~~[$20]~~ **$10** of each fee, collected on the commencement or transfer of any action in district court or upon the filing of any first paper by a defendant, must be submitted to a program for legal services for the operation of programs for the indigent.

Existing law also requires certain fees to be charged and collected at the time of recording a notice of default and election to sell. (NRS 107.080) **Section 2** of this bill provides that $5 of each fee, collected at the time of recording a notice of default and election to sell, must be submitted to a program for legal services for the operation of programs for the indigent.

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

Section 1. NRS 19.0302 is hereby amended to read as follows:

19.0302 1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer $99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by the defendant or defendants $99

(c) On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is $200,000 or more.... $352

(2) Where the stated value of the estate is more than $20,000 but less than $200,000 ..... $99

(3) Where the stated value of the estate is $20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto $200

(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto $1,359

(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as "complex" pursuant to the local rules of practice,

➥ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding..... $349

(g) On the filing of a third-party complaint, to be paid by the filing party $135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party..... $349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court $10

2. ~~[Fees]~~ ***Except as otherwise provided in subsection 4, fees*** collected pursuant to this section must be deposited into a special account administered by the county and maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff;

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraphs (a) and (b), to:

(1) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(5) Acquire advanced technology;

(6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court;

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district; ~~[or]~~

(8) ***In a county whose population is less than 100,000, support legal services to the indigent and to be used by the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent; or***

(9) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer ~~[all]~~ ***:***

(a) In a county whose population is 100,000 or more, an amount equal to ~~[$20]~~ $10 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the clerk of the court or county clerk pursuant to this paragraph.

(b) All remaining fees collected pursuant to this section during the preceding month.

Sec. 2. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment;

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a

notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation; and

(d) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; and

(b) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated; and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any

successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

9. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 8, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to $500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 8 and for reasonable attorney's fees and the costs of bringing the action.

10. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of $150 for deposit in the State General Fund.

(b) A fee of ~~[$50]~~ ***$45*** for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account

must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

~~[~~ ***(c) A fee of $5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.***

11. The fees collected pursuant to ~~[this subsection]~~ ***paragraphs (a) and (b) of subsection 10*** must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account ***for Foreclosure Mediation*** as prescribed pursuant to ~~[this]~~ subsection ~~[.]~~ ***10.*** The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in ~~[this]~~ subsection ~~[~~.

~~11.]~~ ***10.***

12. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 10.

~~[12.]~~ ***13.*** As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":

(a) Means a structure that is comprised of not more than four units.

(b) Does not include any time share or other property regulated under chapter 119A of NRS.

Sec. 3. This act becomes effective on July 1, 2011.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 950 relates to a fee that would supplement the costs of legal services for the indigent. The amendment changes the amount of that fee from $20 to $10.

Amendment adopted.

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

Assembly Bill No. 307.
Bill read third time.
Roll call on Assembly Bill No. 307:
YEAS—21.
NAYS—None.

Assembly Bill No. 307 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 330.
Bill read third time.
Roll call on Assembly Bill No. 330:
YEAS—21.
NAYS—None.

Assembly Bill No. 330 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 402.
Bill read third time.
Roll call on Assembly Bill No. 402:
YEAS—21.
NAYS—None.

Assembly Bill No. 402 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 404.
Bill read third time.
Roll call on Assembly Bill No. 404:
YEAS—21.
NAYS—None.

Assembly Bill No. 404 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 486.
Bill read third time.
Roll call on Assembly Bill No. 486:
YEAS—21.
NAYS—None.

Assembly Bill No. 486 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 490.
Bill read third time.
Roll call on Assembly Bill No. 490:
YEAS—21.
NAYS—None.

Assembly Bill No. 490 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 491.
Bill read third time.
Roll call on Assembly Bill No. 491:
YEAS—21.
NAYS—None.

Assembly Bill No. 491 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 492.
Bill read third time.
Roll call on Assembly Bill No. 492:
YEAS—21.
NAYS—None.

Assembly Bill No. 492 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 493.
Bill read third time.
Roll call on Assembly Bill No. 493:
YEAS—21.
NAYS—None.

Assembly Bill No. 493 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 495.
Bill read third time.
Roll call on Assembly Bill No. 495:
YEAS—21.
NAYS—None.

Assembly Bill No. 495 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 497.
Bill read third time.
Roll call on Assembly Bill No. 497:
YEAS—21.
NAYS—None.

Assembly Bill No. 497 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 515.
Bill read third time.
Roll call on Assembly Bill No. 515:
YEAS—21.
NAYS—None.

Assembly Bill No. 515 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 546.
Bill read third time.
Roll call on Assembly Bill No. 546:
YEAS—13.
NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Roberson, Settelmeyer—8.

Assembly Bill No. 546 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 562.
Bill read third time.
Roll call on Assembly Bill No. 562:
YEAS—21.
NAYS—None.

Assembly Bill No. 562 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 563.
Bill read third time.
Roll call on Assembly Bill No. 563:
YEAS—21.
NAYS—None.

Assembly Bill No. 563 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 74.

Bill read third time.

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

Amendment No. 903.

"SUMMARY—Revises various provisions relating to the regulation of the insurance industry. (BDR 57-472)"

"AN ACT relating to insurance; requiring the Commissioner of Insurance to adopt regulations relating to electronic signatures, records and payments; revising provisions relating to the external review of adverse determinations of health carriers; clarifying the circumstances under which an actuary is not liable for damages with respect to the actuary's opinion; authorizing the electronic transmission of fingerprints with an application for a license; revising provisions relating to the licensing of adjusters; revising provisions relating to surplus lines insurance; revising provisions relating to the use of credit information; requiring that certain policies of group insurance be filed with and approved by the Commissioner; revising provisions relating to annuities, pure endowment contracts and policies of life insurance; revising provisions relating to evidence of insurance for motor vehicles; revising provisions relating to disciplinary action by the Commissioner; revising and clarifying provisions relating to employee leasing companies; **providing for coverage by the Nevada Life and Health Insurance Guarantee Association for certain unallocated annuity contracts owned by certain governmental retirement plans;** providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides a set of procedures for the external review of an adverse determination by a managed care organization. (NRS 695G.241-695G.310) **Sections 2, 3, 8, 9, 79-118.8, 123-127 and 129-131** of this bill amend the external review process to comply with the federal Patient Protection and Affordable Care Act (Public Law 111–148) and enact other related provisions necessary to comply with the minimum standards prescribed by federal law.

Existing law limits the liability of a qualified actuary for damages relating to the actuary's opinion regarding an insurer who offers life insurance. (NRS 681B.250) **Section 6** of this bill clarifies that this limitation of liability applies not only for life insurance but for any opinion an actuary issues pursuant to chapter 681B of NRS or any regulations adopted thereto.

Existing law requires the Commissioner of Insurance to adopt regulations governing the use of certain electronic methods relating to insurance. (NRS 679B.136, 685A.210) **Sections 1 and 29** of this bill expand the electronic methods that the Commissioner can allow the use of for insurance transactions. Additionally, **sections 10, 11, 20, 44-47 and 122** of this bill allow for the fingerprints required to be submitted with an application for a license pursuant to the Nevada Insurance Code to be submitted electronically.

Existing law requires an applicant for a license as an insurance adjuster to be a resident of this State with certain exceptions. (NRS 684A.070) On December 9, 2009, the United States District Court for the District of Nevada held that the residency requirement to obtain a license as an insurance adjuster violates the Privileges and Immunities Clause of the United States Constitution. (*Reitz v. Kipper*, 674 F.Supp.2d 1194 (D. Nev. 2009)) **Sections 15-26** of this bill revise provisions relating to the licensing of insurance adjusters to remove the residency requirement. **Sections 15-26** also require that an applicant either pass an examination in this State before receiving a license as an insurance adjuster or, if not a resident of this State, be currently licensed in a state that requires an examination before licensure.

Existing law governs trade practices and frauds relating to the insurance business and gives the Commissioner exclusive jurisdiction to regulate trade practices in the insurance business. (Chapter 686A of NRS) **Section 30** of this bill requires an insurer that uses credit information to provide reasonable exceptions to their rates in certain circumstances.

Under existing law, an insurer may not market certain insurance products without first filing the product with the Commissioner and receiving the Commissioner's approval. (NRS 687B.120) **Section 35** of this bill also requires any group insurance policies to be issued pursuant to NRS 688B.030 or 689B.026 to be filed with and approved by the Commissioner before being marketed.

Under existing law, an employee leasing company is deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans. (NRS 616B.691) In 2007, this section was amended to clarify that such a company is also deemed to be the employer for the purposes of the Employee Retirement Income Security Act of 1974(ERISA). (Chapter 536, Statutes of Nevada 2007, p. 3339) On August 6, 2010, the United States District Court for the District of Nevada held that NRS 616B.691 was preempted by federal law to the extent that it declares the status of any benefit plans for purposes of ERISA. (*Payroll Solutions Group, Ltd. v. Nevada*, No. 02-CV-06-00927-JCM-RJJ (D. Nev. Aug. 6, 2010)) **Section 128** of this bill reverses the changes made to NRS 616B.691 during the 2007 Legislative Session. In addition, **section 128** clarifies that the provisions of subsection 1 of that section apply only for the purposes of chapters 612 and 616A-617 of NRS. **Section 128** also clarifies that the provisions of subsection 2 of that section do not affect the existing employer-employee relationship between a leased employee and a client company.

Sections 33.1, 33.3 and 33.7 of this bill require the Nevada Life and Health Insurance Guarantee Association to provide coverage for certain unallocated annuity contracts owned by a governmental retirement plan under certain circumstances. Section 33.7 provides that such coverage must not exceed $100,000 in the aggregate for each participant, regardless of the number of contracts.

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

Section 1. NRS 679B.136 is hereby amended to read as follows:

679B.136 1. The Commissioner shall adopt regulations governing:

(a) The use of electronic signatures, and the acceptance and transmission of electronic records ~~[, in]~~ ***and payments, including transactions involving claims and other*** transactions relating to insurance; and

(b) The electronic filing of forms and payment of fees, and the storage and reproduction of records, filed with the Division.

2. As used in this section:

(a) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(b) "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.

(c) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(d) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(e) "Transaction" means an action or set of actions occurring between two or more persons relating to the transaction of business, commercial or governmental affairs.

Sec. 2. NRS 679B.240 is hereby amended to read as follows:

679B.240 To ascertain compliance with law, or relationships and transactions between any person and any insurer or proposed insurer, the Commissioner may, as often as he or she deems advisable, examine the accounts, records, documents and transactions relating to such compliance or relationships of:

1. Any insurance agent, solicitor, broker, surplus lines broker, general agent, adjuster, insurer representative, bail agent, motor club agent or any other licensee or any other person the Commissioner has reason to believe may be acting as or holding himself or herself out as any of the foregoing.

2. Any person having a contract under which the person enjoys in fact the exclusive or dominant right to manage or control an insurer.

3. Any insurance holding company or other person holding the shares of voting stock or the proxies of policyholders of a domestic insurer, to control the management thereof, as voting trustee or otherwise.

4. Any subsidiary of the insurer.

5. Any person engaged in this state in, or proposing to be engaged in this state in, or holding himself or herself out in this state as so engaging or proposing, or in this state assisting in, the promotion, formation or financing of an insurer or insurance holding corporation, or corporation or other group to finance an insurer or the production of its business.

6. Any ~~[external]~~ ***independent*** review organization, as defined in NRS 695G.018.

Sec. 3. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) If an annual fee, paid on or before March 1 of every year;

(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

(d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(c) ~~[External]~~ ***Independent*** review organizations, as provided for in NRS 616A.469 or ~~[683A.371,]~~ ***section 8 of this act,*** or both:

(1) Initial fee.....$60

(2) Annual fee.....$60

(d) Insurers not otherwise provided for in this subsection:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(e) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(f) Accredited reinsurers, as provided for in NRS 681A.160:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(g) Intermediaries, as defined in NRS 681A.330:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(h) Reinsurers, as defined in NRS 681A.370:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(i) Administrators, as defined in NRS 683A.025:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(j) Managing general agents, as defined in NRS 683A.060:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(k) Agents who perform utilization reviews, as defined in NRS 683A.376:
(1) Initial fee.....$60
(2) Annual fee.....$60
(l) Insurance consultants, as defined in NRS 683C.010:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(m) Independent adjusters, as defined in NRS 684A.030:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(n) Public adjusters, as defined in NRS 684A.030:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(o) Associate adjusters, as defined in NRS 684A.030:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(p) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(q) Brokers, as defined in NRS 685A.030:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(r) Eligible surplus line insurers, as provided for in NRS 685A.070:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(s) Companies, as defined in NRS 686A.330:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(t) Rate service organizations, as defined in NRS 686B.020:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(u) Brokers of viatical settlements, as defined in NRS 688C.030:
(1) Initial fee.....$60
(2) Annual fee.....$60
(v) Providers of viatical settlements, as defined in NRS 688C.080:
(1) Initial fee.....$60
(2) Annual fee.....$60

(w) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(x) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(y) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(z) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(aa) Providers, as defined in NRS 690C.070:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(bb) Escrow officers, as defined in NRS 692A.028:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(cc) Title agents, as defined in NRS 692A.060:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(dd) Captive insurers, as defined in NRS 694C.060:

(1) Initial fee.....$250

(2) Annual fee.....$250

(ee) Fraternal benefit societies, as defined in NRS 695A.010:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(ff) Insurance agents for societies, as provided for in NRS 695A.330:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(gg) Corporations subject to the provisions of chapter 695B of NRS:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(hh) Health maintenance organizations, as defined in NRS 695C.030:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(ii) Organizations for dental care, as defined in NRS 695D.060:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(jj) Purchasing groups, as defined in NRS 695E.100:

(1) Initial fee.....$250

(2) Annual fee.....$250

(kk) Risk retention groups, as defined in NRS 695E.110:

(1) Initial fee.....$250

(2) Annual fee.....$250

(ll) Prepaid limited health service organizations, as defined in NRS 695F.050:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(mm) Medical discount plans, as defined in NRS 695H.050:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(nn) Club agents, as defined in NRS 696A.040:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(oo) Motor clubs, as defined in NRS 696A.050:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(pp) Bail agents, as defined in NRS 697.040:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(qq) Bail enforcement agents, as defined in NRS 697.055:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(rr) Bail solicitors, as defined in NRS 697.060:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(ss) General agents, as defined in NRS 697.070:

(1) Initial fee.....$60

(2) Triennial fee.....$60

Sec. 3.5. NRS 681A.022 is hereby amended to read as follows:

681A.022 "Continuous care coverage" is the issuance of a policy of insurance for workers' compensation, as described in paragraph (c) of subsection 1 of NRS 681A.020, issued jointly with and supplemental to a policy for health insurance, as defined in NRS 681A.030, by one or more insurers covering the same ~~[individual]~~ ***employer*** for the same policy period.

Sec. 4. NRS 681A.040 is hereby amended to read as follows:

681A.040 ***1.*** "Life insurance" is insurance on human lives. The transaction of life insurance includes the granting of endowment benefits, additional incidental benefits in the event of death or dismemberment by accident or accidental means, additional incidental benefits in the event of the insured's disability, optional modes of settlement of proceeds of life insurance, and provisions operating to safeguard contracts of life insurance against lapse.

2. The term includes a policy of life insurance which incorporates long-term care insurance if the policy of life insurance may incorporate the long-term care insurance pursuant to section 36 of this act.

Sec. 5. NRS 681B.200 is hereby amended to read as follows:

681B.200 As used in NRS 681B.200 to 681B.260, inclusive, "qualified actuary" means ~~[a member in good standing of the American Academy of Actuaries, or a successor organization approved by the Commissioner who meets the requirements set forth in the organization's regulations.]~~ ***a person who is qualified to sign the applicable statement of actuarial opinion in accordance with the qualification standards set by the American Academy of Actuaries for an actuary signing such a statement.***

Sec. 5.5. NRS 681B.210 is hereby amended to read as follows:

681B.210 Every insurer ~~[offering life insurance]~~ doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The Commissioner by regulation may further define or enlarge the scope of this opinion.

Sec. 6. NRS 681B.250 is hereby amended to read as follows:

681B.250 1. Except in a case of fraud or willful misconduct, a qualified actuary ***who is appointed by an insurer to issue an opinion pursuant to this chapter or any regulation adopted pursuant thereto*** is not liable for damages to any person other than an affected insurer or the Commissioner for any act, error, omission, decision or conduct with respect to the actuary's opinion.

2. Disciplinary action by the Commissioner against an actuary must be prescribed by regulation by the Commissioner.

Sec. 7. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. ***1. An independent review organization must be approved by the Commissioner to be eligible to be assigned to conduct external reviews.***

2. In order to be eligible for approval or reapproval by the Commissioner to conduct external reviews, an independent review organization:

(a) Except as otherwise provided in this section, must be accredited by a nationally recognized private accrediting entity which the Commissioner has determined has standards for the accreditation of independent review organizations that are equivalent to or exceed the minimum qualifications for independent review organizations established under section 9 of this act; and

(b) Must submit an application in accordance with subsection 4.

3. The Commissioner shall develop an application form for the initial approval and reapproval of an independent review organization to conduct external reviews.

4. An independent review organization wishing to be approved or reapproved to conduct external reviews must submit the application form and include with the form all documentation and information necessary for the Commissioner to determine if the independent review organization satisfies the minimum qualifications established under section 9 of this act.

5. The Commissioner may approve an independent review organization that is not accredited by a nationally recognized private accrediting entity if there are no acceptable nationally recognized private accrediting entities providing accreditation of independent review organizations.

6. The Commissioner may charge any applicable fee which an independent review organization must submit to the Commissioner with its application for initial approval or reapproval.

7. An approval or reapproval is effective for 2 years unless the Commissioner determines before its expiration that the independent review organization does not satisfy the minimum qualifications established under section 9 of this act.

8. Whenever the Commissioner determines that an independent review organization has lost its accreditation or no longer satisfies the minimum requirements established under section 9 of this act, the Commissioner shall terminate the approval of the independent review organization and remove the independent review organization from the list of independent review organizations approved to conduct external reviews that is maintained by the Commissioner pursuant to subsection 9.

9. The Commissioner shall maintain and periodically update a list of approved independent review organizations.

10. The Commissioner may adopt regulations to carry out the provisions of this section.

11. As used in this section, "independent review organization" has the meaning ascribed to it in NRS 695G.018.

Sec. 9. *1. To be approved under section 8 of this act to conduct external reviews, an independent review organization shall have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process which include, without limitation:*

(a) A quality assurance mechanism which ensures:

(1) That an external review is conducted within the specified time frames and required notices are provided in a timely manner;

(2) The selection of qualified and impartial clinical reviewers to conduct external reviews on behalf of the independent review organization, suitable matching of reviewers to specific cases and that the independent review organization employs or contracts with an adequate number of clinical reviewers to meet this requirement;

(3) The confidentiality of medical and treatment records and clinical review criteria; and

(4) That a person employed by or under contract with the independent review organization adheres to the requirements of the external review process;

(b) A toll-free telephone service that is capable of accepting, recording or providing appropriate instruction relating to external reviews to incoming telephone callers 24 hours a day, 7 days a week; and

(c) An agreement to maintain and provide to the Office for Consumer Health Assistance the information required pursuant to section 110 of this act.

2. A clinical reviewer assigned by an independent review organization to conduct an external review must be a physician or other appropriate health care provider who must:

(a) Be an expert in the treatment of the covered person's medical condition that is the subject of the external review;

(b) Be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical condition as the covered person;

(c) Hold a nonrestricted license in a state or territory of the United States and, if a physician, hold a current certification by a specialty board of the American Board of Medical Specialties in the area or areas appropriate to the subject of the external review; and

(d) Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical reviewer's physical, mental or professional competence or moral character.

3. In addition to the requirements set forth in subsection 1, an independent review organization may not own or control, be a subsidiary of or in any way be owned or controlled by, or exercise control with a health benefit plan, a national, state or local trade association of health benefit plans, or a national, state or local trade association of health care providers.

4. In addition to the requirements set forth in subsections 1, 2 and 3, to be approved pursuant to section 8 of this act to conduct an external review of a specific case, neither the independent review organization selected to conduct the external review nor a clinical reviewer assigned by the independent review organization to conduct the external review may have a material professional, familial or financial conflict of interest with any of the following:

(a) The health carrier that is the subject of the external review;

(b) The covered person whose treatment is the subject of the external review or the covered person's authorized representative;

(c) Any officer, director or management employee of the health carrier that is the subject of the external review;

(d) The health care provider, the health care provider's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review;

(e) The facility at which the recommended health care service or treatment would be provided; or

(f) The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review.

5. In determining whether an independent review organization or a clinical reviewer of the independent review organization has a material professional, familial or financial conflict of interest for purposes of subsection 4, the Office for Consumer Health Assistance shall take into consideration situations where the independent review organization to be assigned to conduct an external review of a specific case or a clinical reviewer to be assigned by the independent review organization to conduct an external review of a specific case may have an apparent professional, familial or financial relationship or connection with a person described in subsection 4, but that the characteristics of that relationship or connection are such that they are not a material professional, familial or financial conflict of interest that results in the disapproval of the independent review organization or the clinical reviewer from conducting the external review.

6. The Commissioner shall initially review and periodically review the standards of a nationally recognized private accrediting entity for accreditation of independent review organizations to determine whether the entity's standards are equivalent to or exceed the minimum qualifications established in this section. The Commissioner may accept a review conducted by the National Association of Insurance Commissioners for the purpose of the determination under this subsection and subsection 7.

7. Upon request, a nationally recognized private accrediting entity shall make its current standards for the accreditation of independent review organizations available to the Commissioner or to the National Association of Insurance Commissioners in order for the Commissioner to determine if the entity's standards are equivalent to or exceed the minimum qualifications established in this section. The Commissioner may exclude any private accrediting entity that is not reviewed by the National Association of Insurance Commissioners.

8. An independent review organization must be unbiased. An independent review organization shall establish and maintain written procedures to ensure that it is unbiased in addition to any other procedures required under this section.

9. As used in this section, the words and terms defined in NRS 695G.012 to 695G.080, inclusive, and sections 71 to 101, inclusive, of this act, have the meanings ascribed to them in those sections.

Sec. 9.5. NRS 683A.025 is hereby amended to read as follows:

683A.025 1. Except as limited by this section, "administrator" means a person who:

(a) Directly or indirectly underwrites or collects charges or premiums from or adjusts or settles claims of residents of this State or any other state from within this State in connection with workers' compensation insurance, life or health insurance coverage or annuities, including coverage or annuities provided by an employer for his or her employees;

(b) Administers an internal service fund pursuant to NRS 287.010;

(c) Administers a trust established pursuant to NRS 287.015, under a contract with the trust;

(d) Administers a program of self-insurance for an employer;

(e) Administers a program which is funded by an employer and which provides pensions, annuities, health benefits, death benefits or other similar benefits for his or her employees; or

(f) Is an insurance company that is licensed to do business in this State or is acting as an insurer with respect to a policy lawfully issued and delivered in a state where the insurer is authorized to do business, if the insurance company performs any act described in paragraphs (a) to (e), inclusive, for or on behalf of another insurer ~~[.]~~ ***unless the insurers are affiliated and each insurer is licensed to do business in this State.***

2. "Administrator" does not include:

(a) An employee authorized to act on behalf of an administrator who holds a certificate of registration from the Commissioner.

(b) An employer acting on behalf of his or her employees or the employees of a subsidiary or affiliated concern.

(c) A labor union acting on behalf of its members.

(d) Except as otherwise provided in paragraph (f) of subsection 1, an insurance company licensed to do business in this State or acting as an insurer with respect to a policy lawfully issued and delivered in a state in which the insurer was authorized to do business.

(e) A producer of life or health insurance licensed in this State, when his or her activities are limited to the sale of insurance.

(f) A creditor acting on behalf of his or her debtors with respect to insurance covering a debt between the creditor and debtor.

(g) A trust and its trustees, agents and employees acting for it, if the trust was established under the provisions of 29 U.S.C. § 186.

(h) Except as otherwise provided in paragraph (c) of subsection 1, a trust and its trustees, agents and employees acting for it, if the trust was established pursuant to NRS 287.015.

(i) A trust which is exempt from taxation under section 501(a) of the Internal Revenue Code, 26 U.S.C. § 501(a), its trustees and employees, and a custodian, his or her agents and employees acting under a custodial account which meets the requirements of section 401(f) of the Internal Revenue Code, 26 U.S.C. § 401(f).

(j) A bank, credit union or other financial institution which is subject to supervision by federal or state banking authorities.

(k) A company which issues credit cards, and which advances for and collects premiums or charges from credit card holders who have authorized it to do so, if the company does not adjust or settle claims.

(l) An attorney at law who adjusts or settles claims in the normal course of his or her practice or employment, but who does not collect charges or premiums in connection with life or health insurance coverage or with annuities.

3. As used in this section, "affiliated" means any insurer or other person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another insurer or other person.

Sec. 10. NRS 683A.160 is hereby amended to read as follows:

683A.160 ***1.*** Each applicant for a license as a managing general agent must submit with his or her application:

~~[1. A complete set of his or her fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~2.]~~ ***(a)*** The appointment of the applicant as a managing general agent by each insurer or underwriter department to be so represented; and

~~[3.]~~ ***(b)*** The application and license fee specified in NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

2. Each applicant must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

3. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

Sec. 11. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his or her knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded;

(b) Designated a natural person who is licensed as a producer of insurance and who is authorized to transact business on behalf of the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance; and

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must ~~[furnish a complete set of his or her fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt]~~ ***, as part of his or her application and at the applicant's own expense:***

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

~~[4.]~~ ***5.*** The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 12. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability ~~[.]~~ ***income.***

(b) ~~[~~Health~~]~~ ***Accident and health*** insurance for sickness, bodily injury or accidental death, which may include benefits for disability ~~[.]~~ ***income.***

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

~~[~~(e) Surety~~]~~ ***For the purposes of a producer of insurance, this line of insurance includes surety*** indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

~~[~~(f)~~]~~ ***(e)*** Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

~~[~~(g)~~]~~ ***(f)*** Credit insurance, including ***credit*** life, ***credit*** ~~[~~disability,~~]~~ ***accident and health, credit*** property, ***credit*** ~~[~~unemployment,~~]~~ involuntary unemployment, ~~[~~mortgage life, mortgage guaranty, mortgage disability,~~]~~ guaranteed ***asset*** protection ***,*** ~~[~~of assets,~~]~~ and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

~~[~~(h)~~]~~ ***(g)*** Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

~~[~~(i)~~]~~ ***(h)*** Fixed annuities ***, including, without limitation, indexed annuities,*** as a limited line.

~~[~~(j)~~]~~ ***(i)*** Travel and baggage as a limited line.

~~[~~(k)~~]~~ ***(j)*** Rental car agency as a limited line.

~~[~~(l) Continuous care coverage, which includes health insurance, as set forth in paragraph (b), and may include insurance for workers' compensation.~~]~~

(k) Crop as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance

otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of all applicable renewal fees, except for any fee required pursuant to NRS 680C.110. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his or her license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where the resident producer of insurance principally conducts transactions under his or her license. The place of business may be in his or her residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which the licensee conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which the licensee conducts business as a producer of insurance or his or her business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 12.5. NRS 683A.367 is hereby amended to read as follows:

683A.367 1. A person licensed as a producer of ~~[~~continuous care coverage~~]~~ ***insurance*** shall not sell, solicit or negotiate ~~[~~insurance for workers' compensation~~]~~ ***continuous care coverage*** unless ~~[~~:

~~(a) The~~ ***the*** person is licensed as a producer of ~~[casualty]~~ ***:***

(a) ~~[Casualty]~~ Accident and health insurance and casualty insurance; or

(b) ~~[The policy of insurance for workers' compensation is sold jointly with and supplemental to a policy of health insurance covering the same individual for the same policy period.]~~ ***Accident and health insurance and has received approval from the Commissioner to market continuous care coverage.***

2. A person who violates the provisions of subsection 1 is subject to an administrative fine pursuant to subsection 3 of NRS 683A.201.

Sec. 12.7. **NRS 683A.373 is hereby amended to read as follows:**

683A.373 As soon as practicable after preparing an annual list of ~~[external]~~ ***independent*** review organizations pursuant to subsection 8 of NRS 683A.371, the Commissioner shall submit a copy of the list to the Office for Consumer Health Assistance. If a change occurs in the list, the Commissioner shall notify the Office for Consumer Health Assistance of the change.

Sec. 13. Chapter 684A of NRS is hereby amended by adding thereto the provisions set forth as sections 14, 15 and 16 of this act.

Sec. 14. ***As used in this Code, unless the context otherwise requires, the words and terms defined in NRS 684A.020 and 684A.030 and section 15 of this act have the meanings ascribed to them in those sections.***

Sec. 15. ***"Home state" means:***

1. The District of Columbia or any state or territory of the United States in which an adjuster maintains his or her principal place of residence or principal place of business and is licensed to act as an adjuster; or

2. If neither the state in which the adjuster maintains his or her principal place of residence nor the state in which the adjuster maintains his or her principal place of business has a licensing or examination requirement, a state:

(a) Which has an examination requirement;

(b) In which the adjuster is licensed; and

(c) Which the adjuster declares to be the home state.

Sec. 16. ***1. The provisions of NRS 683A.341 and 686A.310 apply to adjusters and associate adjusters.***

2. For the purposes of subsection 1, unless the context requires that a section apply only to producers of insurance or insurers, any reference in those sections to "producer of insurance" or "insurer" must be replaced by a reference to "adjuster or associate adjuster."

Sec. 17. NRS 684A.020 is hereby amended to read as follows:

684A.020 1. ~~[As used in this Code, "adjuster"]~~ ***"Adjuster"*** means any person who, for compensation as an independent contractor or for a fee or commission, investigates and settles, and reports to his or her principal relative to, claims:

(a) Arising under insurance contracts for property, casualty or surety coverage, on behalf solely of the insurer or the insured; or

(b) Against a self-insurer who is providing similar coverage, unless the coverage provided relates to a claim for industrial insurance.

2. For the purposes of this chapter:

(a) An associate adjuster, as defined in NRS 684A.030;

(b) An attorney at law who adjusts insurance losses from time to time incidental to the practice of his or her profession;

(c) An adjuster of ocean marine losses;

(d) A salaried employee of an insurer; or

(e) A salaried employee of a managing general agent maintaining an underwriting office in this state,

➥ is not considered an adjuster.

Sec. 18. NRS 684A.030 is hereby amended to read as follows:

684A.030 ~~[As used in this Code:]~~

1. "Independent adjuster" means an adjuster representing the interests of an insurer or a self-insurer.

2. "Public adjuster" means an adjuster employed by and representing solely the financial interests of the insured named in the policy.

3. "Associate adjuster" means an employee of an adjuster who, under the direct supervision of the adjuster, assists in the investigation and settlement of insurance losses on behalf of his or her employer.

Sec. 19. NRS 684A.040 is hereby amended to read as follows:

684A.040 1. No person may act as, or hold himself or herself out to be, an adjuster or associate adjuster in this State unless then licensed as such under the applicable independent adjuster's license, public adjuster's license or associate adjuster's license, as the case may be, issued under the provisions of this chapter.

2. ~~[For purposes of this chapter, the Commissioner may issue a limited license to an adjuster handling claims under a contract of one or more of the kinds of insurance defined in NRS 681A.010 to 681A.080, inclusive.~~

~~3.]~~ Any person violating the provisions of this section is guilty of a gross misdemeanor.

~~[4.]~~ ***3.*** A person who acts as an adjuster in this State without a license is subject to an administrative fine of not more than $1,000 for each violation.

Sec. 20. NRS 684A.070 is hereby amended to read as follows:

684A.070 1. For the protection of the people of this State, the Commissioner may not issue or continue any license as an adjuster except in compliance with the provisions of this chapter. Any person for whom a license is issued or continued must:

(a) Be at least 18 years of age;

(b) ~~[Except as otherwise provided in subsection 2, be a resident of this State, and have resided therein for at least 90 days before his or her application for the license;~~

~~(c)]~~ Be competent, trustworthy, financially responsible and of good reputation;

~~[(d)]~~ ***(c)*** Never have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

~~[(e) Have had at least 2 years' recent experience with respect to the handling of loss claims of sufficient character reasonably to enable the person to fulfill the responsibilities of an adjuster;~~

~~(f) Pass]~~

(d) Unless exempted pursuant to NRS 684A.100 or 684A.105, pass all examinations required under this chapter; and

~~[(g)]~~ ***(e)*** Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.

2. ~~[The Commissioner may waive the residency requirement set forth in paragraph (b) of subsection 1 if the applicant is:~~

~~(a) An adjuster licensed under the laws of another state who has been brought to this State by a firm or corporation with whom the adjuster is employed that is licensed as an adjuster in this State to fill a vacancy in the firm or corporation in this State;~~

~~(b) An adjuster licensed in an adjoining state whose principal place of business is located within 50 miles from the boundary of this State; or~~

~~(c) An adjuster who is applying for a limited license pursuant to NRS 684A.155.~~

~~3.]~~ ***A natural person who is a resident of this State applying for a license must, as part of his or her application and at the applicant's own expense:***

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to

such other law enforcement agencies as the Commissioner deems necessary.

3. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

4. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph ~~[(d)]~~ ***(c)*** of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.

Sec. 21. NRS 684A.100 is hereby amended to read as follows:

684A.100 Each person who intends to apply for a license as an adjuster must, before applying for the license, personally take and pass to the Commissioner's satisfaction a written examination testing the applicant's qualifications and competence to act as an adjuster and his or her knowledge of pertinent provisions of this Code ~~[.]~~ ***unless:***

1. The person:

(a) Is not a resident of this State;

(b) Has passed an examination to become licensed as an adjuster in the person's home state; and

(c) Is currently licensed and in good standing in the person's home state as an adjuster; or

2. The person was licensed in this State as the same type of adjuster within the 24-month period immediately preceding the date of the application, unless the previous license was revoked or suspended or its continuation was refused by the Commissioner.

Sec. 22. NRS 684A.105 is hereby amended to read as follows:

684A.105 An adjuster whose license expires is exempt from retaking the examination required by NRS 684A.100 if ~~[the adjuster applies and is relicensed within 6 months after the date of expiration.]~~ ***:***

1. The adjuster:

(a) Is not a resident of this State;

(b) Has passed an examination to become licensed as an adjuster in the person's home state; and

(c) Is currently licensed and in good standing in the person's home state as an adjuster; or

2. The adjuster was licensed in this State as the same type of adjuster within the 24-month period immediately preceding the date of the

application, unless the previous license was revoked or suspended or its continuation was refused by the Commissioner.

Sec. 23. NRS 684A.130 is hereby amended to read as follows:

684A.130 1. Each license issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of all applicable fees for renewal to the Commissioner and submission of the statement required pursuant to NRS 684A.143 if the licensee is a natural person. The statement, if required, must be submitted and all applicable fees must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by the Commissioner within 30 days after the expiration of the license if the request is accompanied by:

(a) A fee for renewal of 150 percent of all applicable fees otherwise required, except for any fee required pursuant to NRS 680C.110; ~~[and]~~

(b) If the person requesting renewal is a natural person, the statement required pursuant to NRS 684A.143 ~~[.]~~ ***;***

(c) Proof of successful completion of any requirement for an examination unless exempt pursuant to NRS 684A.105; and

(d) If applicable, a request for a waiver of the time limit for renewal and of any fine or sanction otherwise required or imposed because of the failure of the licensee to renew his or her license because of military service, extended medical disability or other extenuating circumstance.

3. This section does not apply to temporary licenses issued under NRS 684A.150.

Sec. 24. NRS 684A.143 is hereby amended to read as follows:

684A.143 1. A natural person who applies for the issuance or renewal of a license shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license may not be issued or renewed by the Commissioner if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. As used in this section, "license" means:

(a) A license as an adjuster; ***and***

(b) A license as an associate adjuster**.** ~~[~~**;** ~~and~~

~~(c) A limited license issued pursuant to NRS 684A.155.]~~

Sec. 25. NRS 684A.147 is hereby amended to read as follows:

684A.147 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a license that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

3. As used in this section, "license" means:

(a) A license as an adjuster; ***and***

(b) A license as an associate adjuster**.** ~~[~~**;** ~~and~~

~~(c) A limited license issued pursuant to NRS 684A.155.]~~

Sec. 26. NRS 684A.200 is hereby amended to read as follows:

684A.200 Nonresidents of this state who are granted licenses as adjusters pursuant to ~~[~~subsection 2 of~~]~~ NRS 684A.070 are also subject to NRS 683A.281.

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 685A.210 is hereby amended to read as follows:

685A.210 1. The Commissioner may adopt reasonable regulations, consistent with the provisions of this chapter, for any of the following purposes:

(a) Effectuation of the law;

(b) Establishment of procedures through which determination is to be made as to the eligibility of particular proposed coverages for export; ~~[and]~~

(c) Establishment of procedures for the operation of a nonprofit organization of brokers designed to assist brokers in complying with the provisions of this chapter ~~[.]~~ ***; and***

(d) The use of electronic signatures and the acceptance and transmission of electronic records and payments, including transactions involving claims and other transactions relating to surplus lines insurance.

2. Such regulations carry the penalty provided by NRS 679B.130.

Sec. 30. Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other law or regulation, an insurer that uses credit information shall, upon receipt of a written request from an applicant or policyholder, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for an applicant or policyholder who has experienced and whose credit information has been directly influenced by any of the following:

(a) A catastrophic event, as declared by the Federal or State Government;

(b) A serious illness or injury, or a serious illness or injury to an immediate family member;

(c) The death of a spouse, child or parent;

(d) Divorce or involuntary interruption of legally-owed alimony or support payments;

(e) Identify theft;

(f) Temporary loss of employment for a period of 3 months or more, if it results from involuntary termination;

(g) Military deployment overseas; or

(h) Other events, as determined by the insurer.

2. If an applicant or policyholder submits a request for an exception as set forth in subsection 1, an insurer may, in its sole discretion:

(a) Require the applicant or policyholder to provide reasonable written and independently verifiable documentation of the event;

(b) Require the applicant or policyholder to demonstrate that the event had direct and meaningful impact on the credit information of the applicant or policyholder;

(c) Require that such a request be made not more than 60 days after the date of the application for insurance or the policy renewal;

(d) Grant an exception despite the applicant or policyholder not providing the initial request for an exception in writing; or

(e) Grant an exception where the applicant or policyholder asks for consideration of repeated events or the insurer has considered this event previously.

3. An insurer is not out of compliance with any law or rule relating to underwriting, rating or rate filing as a result of granting an exception under this section. Nothing in this section shall be construed to provide an applicant or policyholder with a cause of action that does not exist in the absence of this section.

4. The insurer shall provide notice to each applicant and policyholder that reasonable exceptions are available and include information about how the applicant or policyholder may inquire further about such exceptions.

5. Within 30 days after the insurer's receipt of sufficient documentation of an event described in subsection 1, the insurer shall inform the applicant or policyholder of the outcome of the request for a reasonable exception. Such communication must be in writing or provided to the applicant or policyholder in the same medium as the request.

6. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 31. NRS 686A.600 is hereby amended to read as follows:

686A.600 As used in NRS 686A.600 to 686A.730, inclusive, ***and section 30 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 686A.610 to 686A.660, inclusive, have the meanings ascribed to them in those sections.

Sec. 32. NRS 686A.670 is hereby amended to read as follows:

686A.670 The provisions of NRS 686A.600 to 686A.730, inclusive, ***and section 30 of this act*** do not apply to a contract of surety insurance issued pursuant to chapter 691B of NRS or any commercial or business policy.

Sec. 33. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2, NRS 686B.010 to 686B.1799, inclusive, apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;

(c) Life insurance and credit life insurance;

(d) Variable and fixed annuities;

(e) ~~[Group and blanket health insurance and credit]~~ ***Credit*** ***accident and*** health insurance;

(f) Property insurance for business and commercial risks;

(g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS; ~~[and]~~

(h) Surety insurance ~~[.]~~ ***;*** ~~*[and]*~~

(i) Health insurance offered through a group health plan maintained by a large employer ~~*[.]*~~ ***; and***

(j) Credit involuntary unemployment insurance.

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

~~[3. As used in this section, "large employer" has the meaning ascribed to it in 42 U.S.C. § 18024(b)(1).]~~

Sec. 33.1. **Chapter 686C of NRS is hereby amended by adding thereto a new section to read as follows:**

"Unallocated annuity contract" means an annuity contract or group annuity certificate which is not issued to and owned by a natural person except to the extent such an annuity contract or group annuity certificate is guaranteed to a natural person by an insurer under such contract or certificate.

Sec. 33.3. **NRS 686C.035 is hereby amended to read as follows:**

686C.035 1. This chapter does not provide coverage for:

(a) A portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the owner of the policy or contract.

(b) A policy or contract of reinsurance unless assumption certificates have been issued pursuant to that policy or contract.

(c) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate or similar factor determined by the use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(1) Averaged over the period of 4 years before the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 2 percentage points from Moody's Corporate Bond Yield Average averaged for the same period, or for the period between the date of issuance of the policy or contract and the date the association became obligated, whichever period is less; and

(2) On or after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 3 percentage points from Moody's Corporate Bond Yield Average as most recently available.

(d) A portion of a policy or contract issued to a plan or program of an employer, association or other person to provide life, health or annuity benefits to its employees, members or other persons to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association or other person under:

(1) A multiple employer welfare arrangement described in 29 U.S.C. § 1144;

(2) A minimum-premium group insurance plan;

(3) A stop-loss group insurance plan; or

(4) A contract for administrative services only.

(e) A portion of a policy or contract to the extent that it provides for dividends, credits for experience, voting rights or the payment of any fee or

allowance to any person, including the owner of a policy or contract, for services or administration connected with the policy or contract.

(f) A policy or contract issued in this state by a member insurer at a time when the member insurer was not authorized to issue the policy or contract in this state.

(g) A portion of a policy or contract to the extent that the assessments required by NRS 686C.230 with respect to the policy or contract are preempted by federal law.

(h) An obligation that does not arise under the express written terms of the policy or contract issued by the insurer, including:

(1) Claims based on marketing materials;

(2) Claims based on side letters or other documents that were issued by the insurer without satisfying applicable requirements for filing or approval of policy forms;

(3) Misrepresentations of or regarding policy benefits;

(4) Extra-contractual claims; or

(5) A claim for penalties or consequential or incidental damages.

(i) A contractual agreement that establishes the member insurer's obligation to provide a guarantee based on accounting at book value for participants in a defined-contribution benefit plan by reference to a portfolio of assets owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

(j) A portion of a policy or contract to the extent that it provides for interest or other changes in value which are determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the rights of the owner of the policy or contract are subject to forfeiture, determined on the date the member insurer becomes an impaired or insolvent insurer, whichever occurs first. If the interest or changes in value of a policy or contract are credited less frequently than annually, for the purpose of determining the values that have been credited and are not subject to forfeiture, the interest or change in value determined by using procedures stated in the policy or contract must be credited as if the contractual date for crediting interest or changing values was the date of the impairment or insolvency of the insured member, whichever occurs first and is not subject to forfeiture.

(k) An unallocated annuity contract ~~[.]~~ ***other than an annuity owned by a governmental retirement plan established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan.***

2. As used in this section, "Moody's Corporate Bond Yield Average" means the monthly average for corporate bonds published by Moody's Investors Service, Inc., or any successor average.

Sec. 33.5. **NRS 686C.040 is hereby amended to read as follows:**

686C.040 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 686C.045 to 686C.125, inclusive**, *and section 33.1 of this act*** have the meanings ascribed to them in those sections.

Sec. 33.7. **NRS 686C.210 is hereby amended to read as follows:**

686C.210 1. The benefits that the Association may become obligated to cover may not exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(b) With respect to one life, regardless of the number of policies or contracts:

(1) Three hundred thousand dollars in death benefits from life insurance, but not more than $100,000 in net cash for surrender and withdrawal for life insurance; or

(2) One hundred thousand dollars in the present value of benefits from annuities, including net cash for surrender and withdrawal;

(c) With respect to health insurance for any one natural person:

(1) One hundred thousand dollars for coverages other than disability insurance, basic hospital, medical and surgical insurance or major medical insurance, including any net cash for surrender or withdrawal;

(2) Three hundred thousand dollars for disability insurance; or

(3) Five hundred thousand dollars for basic hospital, medical and surgical insurance or major medical insurance; ~~[or]~~

(d) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, $100,000 in present value of benefits from the annuity in the aggregate, including any net cash for surrender or withdrawal~~.~~ ~~]~~ ***; or***

(e) With respect to each participant in a governmental retirement plan covered by an unallocated annuity contract which is owned by a governmental retirement plan established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan, and which is approved by the Commissioner, an aggregate of $100,000, regardless of the number of contracts.

2. In no event is the Association obligated to cover more than:

(a) With respect to any one life or person under paragraphs (b) and (c) of subsection 1:

(1) An aggregate of $300,000 in benefits, excluding benefits for basic hospital, medical and surgical insurance or major medical insurance; or

(2) An aggregate of $500,000 in benefits, including benefits for basic hospital, medical and surgical insurance or major medical insurance.

(b) With respect to one owner of several nongroup policies of life insurance, whether the owner is a natural person or an organization and whether the persons insured are officers, managers, employees or other persons, more than $5,000,000 in benefits, regardless of the number of policies and contracts held by the owner.

3. The limitations set forth in this section are limitations on the benefits for which the Association is obligated before taking into account its rights to subrogation or assignment or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The cost of the Association's obligations under this chapter may be met by the use of assets attributable to covered policies, or reimbursed to the Association pursuant to its rights to subrogation or assignment.

4. In performing its obligation to provide coverage under NRS 686C.150 and 686C.152, the Association need not guarantee, assume, reinsure or perform, or cause to be guaranteed, assumed, reinsured or performed, the contractual obligations of the impaired or insolvent insurer under a covered policy or contract which do not materially affect the economic value or economic benefits of the covered policy or contract.

Sec. 34. NRS 687A.037 is hereby amended to read as follows:

687A.037 "Member insurer" means any person, except a fraternal or nonprofit service corporation which:

1. Writes any kind of insurance to which this chapter applies, including the exchange of reciprocal or interinsurance agreements of indemnity.

2. Is ~~[licensed]~~ ***authorized*** to transact insurance in this state.

Sec. 35. NRS 687B.120 is hereby amended to read as follows:

687B.120 1. ***Except as otherwise provided in subsection 2:***

(a) No life or health insurance policy or contract, annuity contract form, policy form, health care plan or plan for dental care, whether individual, group or blanket, including those to be issued by a health maintenance organization, organization for dental care or prepaid limited health service organization, or application form where a written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, or form of individual certificate or statement of coverage to be issued under group or blanket contracts, or by a health maintenance organization, organization for dental care or prepaid limited health service organization, may be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner. ~~[This subsection does not apply to any special rider or endorsement which relates to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies, which special riders or endorsements are used at the request of the individual policyholder, contract holder or certificate holder.]~~

(b) As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state must be filed, for informational purposes only, with the Commissioner at the request of the Commissioner.

2. ***As to group insurance policies to be issued to a group approved pursuant to NRS 688B.030 or 689B.026, no policies of group insurance may be marketed to a resident or employer of this State unless the policy***

and any form or certificate to be issued pursuant to the policy has been filed with and approved by the Commissioner.

3. Every ~~[such]~~ filing ***made pursuant to the provisions of subsection 1 or 2*** must be made not less than 45 days in advance of any ~~[such]~~ delivery ~~[.]~~ ***pursuant to subsection 1 or marketing pursuant to subsection 2.*** At the expiration of 45 days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. Approval of any such form by the Commissioner constitutes a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not more than an additional 30 days the period within which the Commissioner may so affirmatively approve or disapprove any such form, by giving notice to the insurer of the extension before expiration of the initial 45-day period. At the expiration of any such period as so extended, and in the absence of prior affirmative approval or disapproval, any such form shall be deemed approved. The Commissioner may at any time, after notice and for cause shown, withdraw any such approval.

~~[3.]~~ ***4.*** Any order of the Commissioner disapproving any such form or withdrawing a previous approval must state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

~~[4.]~~ ***5.*** The Commissioner may, by order, exempt from the requirements of this section for so long as the Commissioner deems proper any insurance document or form or type thereof specified in the order, to which, in the opinion of the Commissioner, this section may not practicably be applied, or the filing and approval of which are, in the opinion of the Commissioner, not desirable or necessary for the protection of the public.

~~[5.]~~ ***6.*** Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

Sec. 36. Chapter 688A of NRS is hereby amended by adding thereto a new section to read as follows:

1. An annuity or policy of life insurance may incorporate long-term care insurance if:

(a) The long-term care insurance incorporated into the annuity or policy of life insurance complies with regulations adopted by the Commissioner.

(b) The Commissioner approves the incorporation of long-term care insurance into the annuity or policy of life insurance.

2. The Commissioner shall adopt regulations that define "long-term care insurance" for the purposes of this section.

Sec. 37. NRS 688A.020 is hereby amended to read as follows:

688A.020 ***1.*** For the purposes of this Code, an "annuity" is a contract under which obligations are assumed to make periodic payments for a specific term or terms or where the making or continuance of all or some

such payments, or the amount of any such payment, is dependent upon continuance of human life, except payments made pursuant to optional modes of settlement under the authority of NRS 681A.040 **.** ~~[("life insurance" defined). Such a contract which includes extra benefits of the kinds set forth in NRS 681A.030 ("health insurance" defined) and NRS 681A.040 ("life insurance" defined) shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.]~~

2. The term includes an annuity contract which incorporates long-term care insurance if the annuity contract may incorporate the long-term care insurance pursuant to section 36 of this act.

Sec. 38. NRS 688A.165 is hereby amended to read as follows:

688A.165 ***1.*** No ***annuity contract, pure endowment contract or*** policy of life insurance, other than ~~[an industrial life insurance]~~ ***a replacement contract or*** policy, may be delivered or issued for delivery in this state unless it contains a provision, or a notice attached to the ***contract or*** policy, which, in substance, states that during a period of 10 days from the date the ***contract or*** policy is delivered to the ***contract or*** policy owner, it may be surrendered to the insurer together with a written request for cancellation of the ***contract or*** policy and in such event, the insurer will refund any premium paid therefor, including any ***contract or*** policy fees or other charges.

2. No annuity contract, pure endowment contract or policy of life insurance that is a replacement contract or policy may be delivered or issued for delivery in this State unless it contains a provision, or a notice attached to the contract or policy, which, in substance, states that during a period of 30 days after the date on which the contract or policy is delivered to the contract or policy owner, it may be surrendered to the insurer together with a written request for cancellation of the contract or policy and in such event, the insurer will refund any premium paid therefor, including any contract or policy fees or other charges.

3. This section does not apply to industrial life insurance policies.

Sec. 39. NRS 688A.180 is hereby amended to read as follows:

688A.180 1. No annuity or pure endowment contract, other than reversionary annuities (also called survivorship annuities) or group annuities and except as stated in this section, shall be delivered or issued for delivery in this state unless it contains in substance each of the provisions specified in NRS ***688A.165 and*** 688A.190 to 688A.240, inclusive. Any of such provisions not applicable to single-premium annuities or single-premium pure endowment contracts shall not, to that extent, be incorporated therein.

2. This section does not apply to contracts for deferred annuities included in, or upon the lives of beneficiaries under, life insurance policies.

Sec. 40. NRS 688A.363 is hereby amended to read as follows:

688A.363 1. The minimum values, specified in NRS 688A.3631 to 688A.3637, inclusive, and 688A.366, of any paid-up annuity, cash surrender or death benefits available under an annuity contract must be based upon minimum nonforfeiture amounts as defined in this section.

2. ~~[With respect to contracts providing for flexible considerations, the]~~ ***The*** minimum nonforfeiture amount for any time at or before the commencement of any annuity payments is equal to an accumulation ***of 87.5 percent of the gross considerations*** up to such time at a rate of interest calculated pursuant to subsection 3, which must be decreased by the sum of:

(a) Any prior withdrawals from or partial surrenders of the contract, accumulated at a rate of interest calculated pursuant to subsection 3;

(b) An annual charge in the amount of $50, accumulated at rates of interest calculated pursuant to subsection 3;

(c) Any premium tax paid by the company for the contract, accumulated at rates of interest calculated pursuant to subsection 3; and

(d) The amount of any indebtedness to the company on the contract, including interest due and accrued.

~~[➥ The net considerations for a given contract year used to define the minimum nonforfeiture amount must be an amount that is equal to 87.5 percent of the gross considerations credited to the contract during that contract year.]~~

3. For the purpose of this section, the rate of interest used to determine the minimum nonforfeiture amounts must be an annual rate of interest determined as the lesser of 3 percent per annum or a rate specified in the contract if the rate is calculated in accordance with regulations adopted by the Commissioner, except that at no time may the resulting rate be less than 1 percent per annum.

4. The Commissioner may provide by regulation for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit or for other contracts that the Commissioner determines require adjustment. An adjustment to the calculation of the interest rate used to determine the minimum nonforfeiture amounts authorized under this subsection may not result in an interest rate of less than 1 percent per annum.

Sec. 41. NRS 688A.3633 is hereby amended to read as follows:

688A.3633 ***1.*** For contracts which provide cash surrender benefits, such benefits available before maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid before the time of cash surrender, reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate of not more than 1 percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. Any cash surrender benefit shall not be less than the minimum

nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

2. For annuity contracts issued on or after January 1, 2012, that provide cash surrender benefits:

(a) The cash surrender value on or past the maturity date must be equal to the amount used to determine the annuity benefits;

(b) A surrender charge may not be imposed on or past the maturity date of the annuity contract; and

(c) For annuity contracts with one or more renewable guaranteed periods, a new surrender charge schedule may be imposed for each new guaranteed period if:

(1) The surrender charge is zero at the end of each guaranteed period and remains zero for at least 30 days;

(2) The contract provides for continuation of the contract without surrender charges unless the contract holder specifically elects a new guaranteed period with a new surrender charge schedule; and

(3) The renewal period does not exceed 10 years and the maturity date complies with NRS 688A.3637.

3. An annuity contract that provides for flexible considerations may have separate surrender charge schedules associated with each consideration.

Sec. 42. NRS 688A.3637 is hereby amended to read as follows:

688A.3637 ***1.*** For the purpose of determining the benefits calculated under NRS 688A.3633 and 688A.3635 ~~[, in]~~ ***:***

(a) In the case of annuity contracts ***issued before January 1, 2012,*** under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election is permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, whichever is later.

(b) In the case of annuity contracts issued on or after January 1, 2012, the maturity date shall be deemed to be the latest date permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, whichever is later.

2. For the purpose of determining the maturity date under this section for an annuity contract that provides for flexible considerations, the 10th anniversary of the contract is determined separately for each consideration.

Sec. 43. NRS 688C.200 is hereby amended to read as follows:

688C.200 1. Upon the filing of an application and payment of all applicable fees, the Commissioner shall investigate the applicant, and issue a license if the Commissioner finds that the applicant:

(a) If a provider of viatical settlements, has set forth a detailed plan of operation;

(b) Is competent and trustworthy and intends to act in good faith in the capacity for which the license is sought;

(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies the applicant in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements:

(1) Has included a plan to prevent fraud which satisfies the requirements of NRS 688C.490; and

(2) Has demonstrated evidence of financial responsibility through either:

(I) A surety bond executed and issued by an authorized surety in favor of the State of Nevada, continuous in form and in an amount as determined by the Commissioner, of not less than $250,000; or

(II) A deposit of cash, certificates of deposit, securities or any combination thereof in the amount of $250,000.

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable written consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

4. Notwithstanding any provision of this section to the contrary, the Commissioner shall accept as evidence of financial responsibility proof that financial instruments complying with the requirements of this section have been filed with a state where the applicant is licensed as a ***provider or*** broker of viatical settlements.

5. A surety bond issued for the purposes of this section must specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as a result of:

(a) Erroneous acts;

(b) Failure to act; or

(c) Conviction of:

(1) Fraud; or

(2) Unfair practices,

➥ by the provider or broker of viatical settlements.

6. The Commissioner may request evidence of financial responsibility as described in subparagraph (2) of paragraph (e) of subsection 1 at any time the Commissioner deems necessary.

Sec. 44. NRS 689.175 is hereby amended to read as follows:

689.175 1. The proposed seller, or the appropriate corporate officer of the proposed seller, shall apply in writing to the Commissioner for a seller's certificate of authority, showing:

(a) The proposed seller's name and address, and his or her occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner; ***and***

(e) ~~[A complete set of the fingerprints of the proposed seller, or the appropriate corporate officer of the proposed seller, and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and~~

~~(g)]~~ The applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 45. NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number and personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) ~~[Be accompanied by a complete set of the fingerprints of the applicant and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

~~(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.~~

~~(e)]~~ Be accompanied by the statement required pursuant to NRS 689.258.

~~[(f)]~~ ***(d)*** Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c)

of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

4. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 46. NRS 689.490 is hereby amended to read as follows:

689.490 1. The proposed seller, or the appropriate corporate officer of the seller, shall apply in writing to the Commissioner for a seller's permit, showing:

(a) The proposed seller's name and address and his or her occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner; ***and***

(e) ~~[A complete set of the fingerprints of the proposed seller, or the appropriate corporate officer of the seller, and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and~~

~~(g)]~~ The applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those

fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 47. NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) ~~[Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

~~(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.~~

~~(e)]~~ Be accompanied by the statement required pursuant to NRS 689.258.

~~[(f)]~~ ***(d)*** Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

4. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background

and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 48. NRS 689A.745 is hereby amended to read as follows:

689A.745 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of health insurance issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a policy of health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~.~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 49. NRS 689B.026 is hereby amended to read as follows:

689B.026 1. Except as otherwise provided in this section, no policy of group health insurance may be delivered or issued for delivery in this state to a group which was formed for the purpose of purchasing one or more policies of group health insurance.

2. A policy of group health insurance may be delivered to a group described in subsection 1 if the Commissioner approves the issuance. The Commissioner shall not grant approval unless the Commissioner finds that:

(a) The benefits of the policy are reasonable in relation to the premiums charged; ~~[and]~~

(b) The group to which the policy is issued is organized and operated in a fiscally sound manner ~~[.]~~ ***; and***

(c) All policy rates and forms are filed with and approved by the Division before marketing to a resident or employer in this State.

3. ~~[Upon approval by the Commissioner, an insurer may exclude or limit the coverage in a policy issued pursuant to this section of any person as to whom evidence of insurability is not satisfactory to the insurer.]~~ ***The Commissioner shall use the provisions of this chapter and chapter 689C of NRS to review insurance products marketed to employers in this State. The Commissioner shall use the provisions of chapter 689A of NRS to review insurance products marketed to natural persons in this State.***

4. The provisions of this section apply to the offering in this state of a policy issued in another state.

Sec. 50. NRS 689B.0285 is hereby amended to read as follows:

689B.0285 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of group health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of group health insurance issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a policy of group health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning the health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 51. NRS 689B.080 is hereby amended to read as follows:

689B.080 Any insurer authorized to write health insurance in this state, including a nonprofit corporation for hospital, medical or dental services that has a certificate of authority issued pursuant to chapter 695B of NRS, may issue blanket accident and health insurance. No blanket policy, except as provided in subsection ~~[4]~~ ***5*** of NRS 687B.120, may be issued or delivered in

this state unless a copy of the form thereof has been filed in accordance with NRS 687B.120. Every blanket policy must contain provisions which in the opinion of the Commissioner are not less favorable to the policyholder and the individual insured than the following:

1. A provision that the policy, including endorsements and a copy of the application, if any, of the policyholder and the persons insured constitutes the entire contract between the parties, and that any statement made by the policyholder or by a person insured is in the absence of fraud a representation and not a warranty, and that no such statements may be used in defense to a claim under the policy, unless contained in a written application. The insured or the beneficiary or assignee of the insured has the right to make a written request to the insurer for a copy of an application, and the insurer shall, within 15 days after the receipt of a request at its home office or any branch office of the insurer, deliver or mail to the person making the request a copy of the application. If a copy is not so delivered or mailed, the insurer is precluded from introducing the application as evidence in any action based upon or involving any statements contained therein.

2. A provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when the sickness or injury occurred. Failure to give notice within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to give notice and that notice was given as soon as was reasonably possible.

3. A provision that the insurer will furnish to the claimant or to the policyholder for delivery to the claimant such forms as are usually furnished by it for filing proof of loss. If the forms are not furnished before the expiration of 15 days after giving written notice of sickness or injury, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

4. A provision that in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within 90 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within 90 days after the date of the loss. Failure to furnish such proof within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to furnish proof and that the proof was furnished as soon as was reasonably possible.

5. A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of written proof of loss, and that, subject to proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that

any balance remaining unpaid at the termination of that period will be paid immediately upon receipt of proof.

6. A provision that the insurer at its own expense has the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy where it is not prohibited by law.

7. A provision, if applicable, setting forth the provisions of NRS 689B.035.

8. A provision for benefits for expense arising from care at home or health supportive services if that care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

9. A provision that no action at law or in equity may be brought to recover under the policy before the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action may be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

Sec. 51.3. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

"Employee leasing company" has the meaning ascribed to it in NRS 616B.670.

Sec. 51.5. NRS 689C.015 is hereby amended to read as follows:

689C.015 Except as otherwise provided in this chapter, as used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 689C.017 to 689C.106, inclusive, ***and section 51.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 51.7. NRS 689C.065 is hereby amended to read as follows:

689C.065 ***1.*** "Eligible employee" means a permanent employee who has a regular working week of 30 or more hours.

2. The term includes a sole proprietor **,** ~~[or]~~ a partner of a partnership ~~[,]~~ ***or an employee of an employee leasing company,*** if the sole proprietor **,** ~~[or]~~ partner ***or employee of the employee leasing company*** is included as an employee under a health benefit plan of a small employer.

Sec. 51.9. **NRS 689C.111 is hereby amended to read as follows:**

689C.111 1. If an employer was not in existence throughout the entire preceding calendar year, the determination of whether the employer is a small or large employer must be based on the average number of employees reasonably expected to be employed on business days in the current calendar year.

2. Except as otherwise provided by specific statute, the provisions of this chapter that apply to a small employer at the time that a carrier issues a health benefit plan to the small employer pursuant to the provisions of this chapter continue to apply at least until the plan anniversary following the

date on which the small employer no longer meets the requirements of being a small employer.

3. An employee leasing company which has more than 50 employees, including leased employees at client locations, and which sponsors a fully insured health benefit plan for those employees shall be deemed to be a large employer for the purposes of this chapter.

Sec. 52. NRS 689C.156 is hereby amended to read as follows:

689C.156 1. As a condition of transacting business in this State with small employers, a carrier shall actively market to a small employer each health benefit plan which is actively marketed in this State by the carrier to any small employer in this State. The health insurance plans marketed pursuant to this section by the carrier must include, without limitation, a basic health benefit plan and a standard health benefit plan. A carrier shall be deemed to be actively marketing a health benefit plan when it makes available any of its plans to a small employer that is not currently receiving coverage under a health benefit plan issued by that carrier.

2. A carrier shall issue to a small employer any health benefit plan marketed in accordance with this section if the eligible small employer applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan that are not inconsistent with NRS 689C.015 to 689C.355, inclusive, ***and section 51.3 of this act,*** and 689C.610 to 689C.980, inclusive, except that a carrier is not required to issue a health benefit plan to a self-employed person who is covered by, or is eligible for coverage under, a health benefit plan offered by another employer.

3. If a health benefit plan marketed pursuant to this section provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, the carrier shall provide a system for resolving any complaints of an employee concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 53. NRS 690B.023 is hereby amended to read as follows:

690B.023 If insurance for the operation of a motor vehicle required pursuant to NRS 485.185 is provided by a contract of insurance, the insurer shall:

1. Provide evidence of insurance to the insured on a form approved by the Commissioner. The evidence of insurance must include:

(a) The name and address of the policyholder;

(b) The name and address of the insurer;

(c) ***Vehicle information, consisting of:***

(1) The year, make and complete identification number of the insured vehicle or vehicles; ***or***

(2) The word "Fleet" if the vehicle is covered under a fleet policy written on an any auto basis or blanket policy basis;

(d) The term of the insurance, including the day, month and year on which the policy:

(1) Becomes effective; and

(2) Expires;

(e) The number of the policy;

(f) A statement that the coverage meets the requirements set forth in NRS 485.185; and

(g) The statement "This card must be carried in the insured motor vehicle for production upon demand." The statement must be prominently displayed.

2. Provide new evidence of insurance if:

(a) The information regarding the insured vehicle or vehicles required pursuant to paragraph (c) of subsection 1 no longer is accurate;

(b) An additional motor vehicle is added to the policy;

(c) A new number is assigned to the policy; or

(d) The insured notifies the insurer that the original evidence of insurance has been lost.

Sec. 54. Chapter 690C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner may refuse to renew or may suspend, limit or revoke a provider's certificate of registration if the Commissioner finds after a hearing thereon, or upon waiver of hearing by the provider, that the provider has:

(a) Violated or failed to comply with any lawful order of the Commissioner;

(b) Conducted business in an unsuitable manner;

(c) Willfully violated or willfully failed to comply with any lawful regulation of the Commissioner; or

(d) Violated any provision of this chapter.

➥ In lieu of such a suspension or revocation, the Commissioner may levy upon the provider, and the provider shall pay forthwith, an administrative fine of not more than $1,000 for each act or violation.

2. The Commissioner shall suspend or revoke a provider's certificate of registration on any of the following grounds if the Commissioner finds after a hearing thereon that the provider:

(a) Is in unsound condition, is being fraudulently conducted, or is in such a condition or is using such methods and practices in the conduct of its business as to render its further transaction of service contracts in this State currently or prospectively injurious to service contract holders or to the public.

(b) Refuses to be examined, or its directors, officers, employees or representatives refuse to submit to examination relative to its affairs, or to produce its books, papers, records, contracts, correspondence or other documents for examination by the Commissioner when required, or refuse to perform any legal obligation relative to the examination.

(c) Has failed to pay any final judgment rendered against it in this State upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within 30 days after the judgment became final or within 30 days after dismissal of an appeal before final determination, whichever date is the later.

3. The Commissioner may, without advance notice or a hearing thereon, immediately suspend the certificate of registration of any provider that has filed for bankruptcy or otherwise been deemed insolvent.

Sec. 55. NRS 690C.170 is hereby amended to read as follows:

690C.170 To be issued a certificate of registration, a provider must comply with one of the following:

1. Purchase a contractual liability insurance policy which insures the obligations of each service contract the provider issues, sells or offers for sale. The contractual liability insurance policy must be issued by an insurer ***which is not an affiliate of the provider and which is*** authorized to transact insurance in this state or pursuant to the provisions of chapter 685A of NRS ~~[.]~~ ***; or***

2. ~~[~~Maintain a reserve account and deposit with the Commissioner security as provided in this subsection. The reserve account must contain at all times an amount of money equal to at least 40 percent of the gross consideration received by the provider for any unexpired service contracts, less any claims paid on those unexpired service contracts. The Commissioner may examine the reserve account at any time. The provider shall also deposit with the Commissioner security in an amount that is equal to $25,000 or 5 percent of the gross consideration received by the provider for any unexpired service contracts, less any claims paid on the unexpired service contracts, whichever is greater. The security must be:

~~(a) A surety bond issued by a surety company authorized to do business in this state;~~

~~(b) Securities of the type eligible for deposit pursuant to NRS 682B.030;~~

~~(c) Cash;~~

~~(d) An irrevocable letter of credit issued by a financial institution approved by the Commissioner; or~~

~~(e) In any other form prescribed by the Commissioner.~~

~~3.]~~ Maintain, or be a subsidiary of a parent company that maintains, a net worth or stockholders' equity of at least $100,000,000. Upon request, a provider shall provide to the Commissioner a copy of the most recent Form 10-K report or Form 20-F report filed by the provider or parent company of the provider with the Securities and Exchange Commission within the previous year. If the provider or parent company is not required to file those reports with the Securities and Exchange Commission, the provider shall provide to the Commissioner a copy of the most recently audited financial statements of the provider or parent company. If the net worth or stockholders' equity of the parent company of the provider is used to comply with the requirements of this subsection, the parent company must guarantee

to carry out the duties of the provider under any service contract issued or sold by the provider.

Sec. 56. Chapter 691A of NRS is hereby amended by adding thereto a new section to read as follows:

The Commissioner may adopt regulations to carry out the provisions of this chapter.

Sec. 57. NRS 691A.020 is hereby amended to read as follows:

691A.020 1. ~~[Each]~~ ***Except as otherwise provided in subsection 3, each*** insurer which provides ***a policy for a personal line of*** property insurance covering ***a manufactured home or*** mobile ~~[homes]~~ ***home*** in Nevada ***that was manufactured within the immediately preceding 15 years*** shall offer ~~[,]~~ ***to an insured, on a form approved by the Commissioner and*** in addition to any other insurance, ***the option of purchasing*** insurance to pay the ~~[market]~~ ***replacement*** value of the ***manufactured home or*** mobile home in the event of a total loss of the ***manufactured home or*** mobile home ~~[.]~~ ***, including*** ~~*[, without limitation,]*~~ ***the reasonable costs for:***

(a) Transporting and installing the replacement manufactured home or mobile home; and

(b) Debris removal.

2. Nothing in this section requires any insurer to offer any insurance on ***manufactured homes or*** mobile homes at a premium which is not fair and adequate.

3. The provisions of this section do not apply to a policy of insurance placed on a manufactured home or a mobile home by a creditor or lender.

4. As used in this section:

(a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.

(b) "Replacement value" means the amount needed to repair, replace or rebuild a damaged or destroyed manufactured home or mobile home using new materials of similar kind and quality with no deduction for depreciation. The term does not include the value of land.

Sec. 58. NRS 692A.1041 is hereby amended to read as follows:

692A.1041 1. In addition to all other requirements set forth in this title and except as otherwise provided in subsection 4 and NRS 692A.1042, as a condition to doing business in this State, each title agent and title insurer shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 3, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the title agency or title insurer and all escrow officers employed by or associated with the title agent or title insurer.

2. The bond must be in substantially the following form:

Know All Persons by These Presents, that ....., as principal, and ....., as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of

any of the provisions of chapter 692A of NRS, in the sum of ....., lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the Commissioner of Insurance of the Department of Business and Industry of the State of Nevada has issued the principal a license or certificate of authority as a title agent or title insurer, and the principal is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, the principal's agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 692A of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 692A of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 692A of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the .....(day) of .....(month) of ...(year), and remains in force until the surety is released from liability by the Commissioner of Insurance or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Insurance of the Department of Business and Industry of the State of Nevada.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at ....., Nevada, this .....(day) of .....(month) of ...(year).

..... (Seal)
Principal
..... (Seal)
Surety
By .....
Attorney-in-fact
.....
~~[Licensed resident]~~ ***Nevada licensed insurance*** agent

3. Each title agent and title insurer shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of NRS 692A.1042 in an amount that:

(a) Is not less than $20,000 or 2 percent of the average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250, whichever is greater; and

(b) Is not more than $250,000.

➥ The Commissioner shall determine the appropriate amount of the surety bond or substitute form of security that must be deposited initially by the title agent or title insurer based upon the expected average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250. After the initial deposit, the Commissioner shall, on an annual basis, determine the appropriate amount of the surety bond or substitute form of security that must be deposited by the title agent or title insurer based upon the average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250.

4. A title agent or title insurer may offset or reduce the amount of the surety bond or substitute form of security that the title agent or title insurer is required to deposit pursuant to subsection 3 by the amount of any of the following:

(a) Cash or securities deposited with the Commissioner in this State pursuant to NRS 680A.140 or 682B.015.

(b) Reserves against unpaid losses and loss expenses maintained pursuant to NRS 692A.150 or 692A.170.

(c) Unearned premium reserves maintained pursuant to NRS 692A.160 or 692A.170.

(d) Fidelity bonds maintained by the title agent or title insurer.

(e) Other bonds or policies of insurance maintained by the title agent or title insurer covering liability for economic losses to customers caused by the title agent or title insurer.

Sec. 59. NRS 692B.070 is hereby amended to read as follows:

692B.070 1. A written application for any permit required under NRS 692B.040 must be filed with the Commissioner. The application must include or be accompanied by:

(a) The name, type and purposes of the insurer, corporation, syndicate, association, firm or organization formed or proposed to be formed or financed;

(b) On forms furnished by the Commissioner, for each person associated or to be associated as incorporator, director, promoter, manager or in other similar capacity in the enterprise, or in the formation of the proposed insurer, corporation, syndicate, association, firm or organization, or in the proposed financing:

(1) The person's name, residential address and qualifications; ***and***

(2) The person's business background and experience for the preceding 10 years; ~~[and~~

~~(3) A complete set of the person's fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;]~~

(c) A full disclosure of the terms of all pertinent understandings and agreements existing or proposed among any persons or entities so associated or to be associated, and a copy of each such agreement;

(d) Executed quadruplicate originals of the articles of incorporation of a proposed domestic stock or mutual insurer;

(e) The original and one copy of the proposed bylaws of a proposed domestic stock or mutual insurer;

(f) The plan according to which solicitations are to be made and a reasonably detailed estimate of all organization and sales expenses to be incurred in the proposed organization and offering;

(g) A copy of any security, receipt or certificate proposed to be offered, and a copy of any proposed subscription agreement or application therefor;

(h) A copy of any prospectus, offering circular, advertising or sales literature or material proposed to be used;

(i) A copy of the proposed form of any escrow agreement required;

(j) A copy of:

(1) The articles of incorporation of any corporation, other than a proposed domestic insurer, proposing to offer its securities, certified by the public officer having custody of the original thereof;

(2) Any syndicate, association, firm, organization or other similar agreement, by whatever name called, if funds for any of the purposes referred to in subsection 1 of NRS 692B.040 are to be secured through the sale of any security, interest or right in or relative to such syndicate, association, firm or organization; and

(3) If the insurer is, or is to be, a reciprocal insurer, the power of attorney and of other agreements existing or proposed affecting subscribers, investors, the attorney-in-fact or the insurer;

(k) If the applicant is a natural person, the statement required pursuant to NRS 692B.193; and

(l) Such additional pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by a deposit of the fees required under NRS 680B.010 for the filing of the application and for issuance of the permit, if granted.

3. If the applicant is a natural person, the application must include the social security number of the applicant.

4. In lieu of a special filing thereof of information required by subsection 1, the Commissioner may accept a copy of any pertinent filing made with the Securities and Exchange Commission relative to the same offering.

5. Each person identified in paragraph (b) of subsection 1 who is a resident of this State must, as part of his or her application and at the person's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the person's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the person's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the person were taken and directly forwarded electronically or by another means to the Central Repository and that the person has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the person's background and to such other law enforcement agencies as the Commissioner deems necessary.

6. The Commissioner may:

(a) Unless the person's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 5, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the person's background as the Commissioner deems necessary.

Sec. 60. NRS 692B.190 is hereby amended to read as follows:

692B.190 1. No person may in this State solicit subscription to or purchase of any security covered by a solicitation permit issued under this chapter, unless then licensed therefor by the Commissioner.

2. Such a license may be issued only to natural persons, and the Commissioner shall not license any person found by the Commissioner to be:

(a) Dishonest or untrustworthy;

(b) Financially irresponsible;

(c) Of unfavorable personal or business history or reputation; or

(d) For any other cause, reasonably unsuited for fulfillment of the responsibilities of such a licensee.

3. The applicant for such a license must file a written application therefor with the Commissioner, on forms and containing inquiries as designated and required by the Commissioner. The application must include or be accompanied by:

(a) The social security number of the applicant;

(b) An endorsement by the holder of the permit under which the securities are proposed to be sold; ***and***

(c) ~~[A complete set of the fingerprints of the applicant on forms furnished by the Commissioner; and~~

~~(d)]~~ The application fee specified in NRS 680B.010.

4. The Commissioner ~~[~~:

~~(a) May forward the complete set of fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(b) Shall~~ ***shall*** promptly cause an investigation to be made of the identity and qualifications of the applicant.

5. The license, if issued, must be for the period of the permit, and must automatically be extended if the permit is extended.

6. The Commissioner shall revoke the license if at any time after issuance the Commissioner has found that the license was obtained through misrepresentation or concealment of facts, or that the licensee is no longer qualified therefor, or that the licensee has misrepresented the securities offered, or has otherwise conducted himself or herself in or with respect to transactions under the license in a manner injurious to the permit holder or to subscribers or prospects or the public.

7. This section does not apply to securities broker-dealers registered as such under the Securities Exchange Act of 1934, or with respect to securities the sale of which is underwritten, other than on a best efforts basis, by such a broker-dealer.

8. With respect to solicitation of subscriptions to or purchase of securities covered by a solicitation permit issued by the Commissioner, the license required by this section is in lieu of a license or permit otherwise required of the solicitor under any other law of this State.

9. An applicant who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

10. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 9, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 61. NRS 692C.370 is hereby amended to read as follows:

692C.370 For the purposes of this chapter, in determining whether or not an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors among others must be considered:

1. The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, ***operating results,*** insurance in force and other appropriate criteria.
2. The extent to which the insurer's business is diversified among the several lines of insurance.
3. The number and size of risks insured in each line of business.
4. The extent of the geographical dispersion of the insurer's insured risks.
5. The nature and extent of the insurer's reinsurance program.
6. The quality, diversification and liquidity of the insurer's investment portfolio.
7. The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.
8. The surplus as regards policyholders maintained by other comparable insurers.
9. The adequacy of the insurer's reserves.
10. The quality and liquidity of investments in ***affiliates or*** subsidiaries made pursuant to NRS 692C.180 to 692C.250, inclusive. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the judgment of the Commissioner such investment so warrants.
11. The quality of the insurer's earnings and the extent to which the reported earnings of the insurer include extraordinary items. As used in this subsection, the term "extraordinary item" means a nonrecurring occurrence or event.

Sec. 62. (Deleted by amendment.)

Sec. 62.5. **NRS 694C.210 is hereby amended to read as follows:**

694C.210 A captive insurer must apply to the Commissioner for a license. The application must include:

1. A certified copy of the charter and bylaws of the captive insurer;
2. A pro forma financial statement for the captive insurer that has been prepared by a certified public accountant ~~[,]~~ ***or an actuary authorized by the Division to conduct business in this State;***

3. Any other statements or documents that the Commissioner requires to be filed with the application;

4. Evidence of:

(a) The amount and liquidity of its assets relative to the risks to be assumed by the captive insurer;

(b) The expertise, experience and character of the persons who will manage the captive insurer;

(c) The overall soundness of the plan of operation of the captive insurer; and

(d) The adequacy of the programs of the captive insurer providing for loss prevention by its parent or member organizations, as applicable; and

5. Such other information deemed to be relevant by the Commissioner in ascertaining whether the proposed captive insurer will be able to meet its policy obligations.

Sec. 63. NRS 694C.330 is hereby amended to read as follows:

694C.330 Except as otherwise provided in this section, a captive insurer shall pay dividends out of, or make any other distributions from, its capital or surplus, or both, in accordance with the provisions set forth in NRS ***692C.370,*** 693A.140, 693A.150 and 693A.160. A captive insurer shall not pay dividends out of, or make any other distribution with respect to, its capital or surplus, or both, in violation of this section unless the captive insurer has obtained the prior approval of the Commissioner to make such a payment or distribution.

Sec. 64. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before ~~[March 1]~~ ***June 30*** of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer shall file its report in the form required by NRS ~~[680A.265.]~~ ***680A.270.*** The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than ~~[60]~~ ***180*** days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide

sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

3. Any captive insurer failing, without just cause beyond the reasonable control of the captive insurer, to file its annual statement as required by subsection 1 shall pay a penalty of $100 for each day the captive insurer fails to file the report, but not to exceed an aggregate amount of $3,000, to be recovered in the name of the State of Nevada by the Attorney General.

4. Any director, officer, agent or employee of a captive insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement which is false, is guilty of a gross misdemeanor.

Sec. 64.5. **NRS 694C.410 is hereby amended to read as follows:**

694C.410 1. Except as otherwise provided in this section, at least once every 3 years, and at such other times as the Commissioner determines necessary, the Commissioner, or a designee of the Commissioner, shall visit each captive insurer and thoroughly inspect and examine the affairs of the captive insurer to ascertain:

(a) The financial condition of the captive insurer;

(b) The ability of the captive insurer to fulfill its obligations; and

(c) Whether the captive insurer has complied with the provisions of this chapter and the regulations adopted pursuant thereto.

2. Upon the application of a captive insurer, the Commissioner may conduct the visits required pursuant to subsection 1 every 5 years if the captive insurer conducts comprehensive annual audits:

(a) The scope of which is satisfactory to the Commissioner; and

(b) Which are conducted by an independent auditor appointed by the Commissioner.

3. ***The provisions of subsections 1 and 2 do not apply to a pure captive insurer. The Commissioner may conduct an examination of a pure captive insurer at any reasonable time to ascertain:***

(a) The financial condition of the pure captive insurer;

(b) The ability of the pure captive insurer to fulfill its obligations; and

(c) Whether the pure captive insurer has complied with the provisions of this chapter and the regulations adopted pursuant thereto.

4. The Commissioner may contract to obtain legal, financial and examination services from outside the Division to conduct the examination and make recommendations to the Commissioner. The cost of the examination must be paid to the Commissioner by the captive insurer.

~~[4.]~~ ***5.*** The provisions of NRS 679B.230 to 679B.287, inclusive, apply to examinations conducted pursuant to this section.

Sec. 65. NRS 695B.380 is hereby amended to read as follows:

695B.380 1. Except as otherwise provided in subsection 4, each insurer that issues a contract for hospital or medical services in this State shall establish a system for resolving any complaints of an insured concerning

health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a contract for hospital or medical services issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a contract specified in subsection 1 shall, if the contract provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 65.5. ~~[NRS 695C.180 is hereby amended to read as follows:~~

~~695C.180 1. [No] *Except as otherwise provided in subsection 3, no* schedule of charges for enrollee coverage for health care services or amendment thereto may be used in conjunction with any health care plan until a copy of [such] *the* schedule or amendment [thereto] has been filed with and approved by the Commissioner.~~

~~2. Such charges may be established in accordance with actuarial principles for various categories of enrollees. [However the] *The* charges [shall] *must* not be excessive, inadequate [nor] *or* unfairly discriminatory. A certification by a qualified actuary to the adequacy of the charges [shall] *must* accompany the filing along with adequate supporting information.~~

~~*3. The provisions of this section do not apply to health insurance coverage offered through a group health plan maintained by a large employer. As used in this subsection, "large employer" has the meaning ascribed to it in 42 U.S.C. § 18024(b)(1).]*~~ **(Deleted by amendment.)**

Sec. 66. NRS 695C.260 is hereby amended to read as follows:

695C.260 Each health maintenance organization shall establish:

1. A system for resolving complaints which complies with the provisions of NRS 695G.200 to 695G.230, inclusive; and

2. A system for conducting external reviews of ~~[final]~~ adverse determinations that complies with the provisions of NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[.]~~ ***, of this act.***

Sec. 67. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080; or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of ~~[~~final~~]~~ adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[~~,~~]~~ ***, of this act;***

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts,

unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 68. NRS 695E.110 is hereby amended to read as follows:

695E.110 "Risk retention group" means any corporation or association with limited liability that is formed under the laws of any state, Bermuda or the Cayman Islands:

1. Whose primary activity consists of assuming and spreading all or any portion of the exposure of its ***corporation or association*** members to liability;

2. Which is organized primarily to conduct the activity described in subsection 1;

3. Which:

(a) Is chartered and licensed as a liability insurer and authorized to transact insurance under the laws of any state; or

(b) Before January 1, 1985, was chartered or licensed and authorized to transact insurance under the laws of Bermuda or the Cayman Islands and, before that date, had certified to the Commissioner of Insurance of at least one state that it satisfied the state's requirements for capitalization, except that such a group is considered to be a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability;

4. Which does not exclude any person from membership in the group solely to provide for members of the group a competitive advantage over an excluded person;

5. Which has as its:

(a) ~~[Members]~~ ***Owners*** only persons who ~~[have an ownership interest in the group and who are provided insurance by]~~ ***comprise the membership of*** the risk retention group ~~[.]~~ ***and who are provided insurance by the risk retention group;*** or

(b) Sole owner an organization which has as its:

(1) Members only persons who comprise the membership of the risk retention group; and

(2) Owners only persons who comprise the membership of the risk retention group and who are provided insurance by the group;

6. Whose members are engaged in businesses or activities similar or related with respect to the liability to which they are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations;

7. Whose activities do not include the provision of insurance other than:

(a) Liability insurance for assuming and spreading all or any portion of the liability of the members of the group; and

(b) Reinsurance with respect to the liability of any other risk retention group, or any member of such a group, that is engaged in a business or activity such that the other group or member meets the requirements of subsection 6 for membership in the risk retention group that provides reinsurance; and

8. The name of which includes the phrase "risk retention group."

Sec. 69. NRS 695F.230 is hereby amended to read as follows:

695F.230 1. Each prepaid limited health service organization shall establish a system for the resolution of written complaints submitted by enrollees and providers.

2. The provisions of subsection 1 do not prohibit an enrollee or provider from filing a complaint with the Commissioner or limit the Commissioner's authority to investigate such a complaint.

3. Each prepaid limited health service organization that issues any evidence of coverage that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an enrollee or subscriber concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~.~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 70. Chapter 695G of NRS is hereby amended by adding thereto the provisions set forth as sections 71 to 112, inclusive, of this act.

Sec. 71. (Deleted by amendment.)

Sec. 72. (Deleted by amendment.)

Sec. 73. (Deleted by amendment.)

Sec. 74. (Deleted by amendment.)

Sec. 75. (Deleted by amendment.)

Sec. 76. (Deleted by amendment.)

Sec. 77. (Deleted by amendment.)

Sec. 78. (Deleted by amendment.)

Sec. 79. ***"Benefits" means those health care services to which a covered person is entitled under the terms of a health benefit plan.***

Sec. 80. ***"Covered person" means a policyholder, subscriber, enrollee or other person participating in a health benefit plan.***

Sec. 81. (Deleted by amendment.)

Sec. 82. (Deleted by amendment.)

Sec. 83. (Deleted by amendment.)

Sec. 84. (Deleted by amendment.)

Sec. 85. (Deleted by amendment.)

Sec. 86. (Deleted by amendment.)

Sec. 87. (Deleted by amendment.)

Sec. 88. ***"Health benefit plan" means a policy, contract, certificate or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.***

Sec. 89. (Deleted by amendment.)

Sec. 90. (Deleted by amendment.)

Sec. 91. ***"Health care services" means services for the diagnosis, prevention, treatment, care or relief of a health condition, illness, injury or disease.***

Sec. 92. ***"Health carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.***

Sec. 93. (Deleted by amendment.)

Sec. 94. ***"Medical or scientific evidence" means evidence found in the following sources:***

1. Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

2. Peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia and other medical literature that meet the criteria of the National Library of Medicine of the National Institutes of Health for indexing in Index Medicus (MEDLINE) and Elsevier for indexing in Excerpta Medica (EMBASE);

3. Medical journals recognized by the Secretary of Health and Human Services pursuant to section 1861(t)(2) of the Social Security Act, 42 U.S.C. § 1395x;

4. The following standard reference compendia:

(a) AHFS Drug Information published by the American Society of Health-System Pharmacists;

(b) Drug Facts and Comparisons published by Wolter Kluwers Health;

(c) Accepted Dental Therapeutics published by the American Dental Association; and

(d) The United States Pharmacopoeia's Drug Quality and Information Program;

5. Findings, studies or research conducted by or under the auspices of the Federal Government and nationally recognized federal research institutes, including, without limitation:

(a) The Agency for Healthcare Research and Quality;

(b) The National Institutes of Health;

(c) The National Cancer Institute;

(d) The National Academy of Sciences of the National Academies;

(e) The Centers for Medicare and Medicaid Services;

(f) The Food and Drug Administration; and

(g) Any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health care services; or

6. Any other source of medical or scientific evidence that is comparable to the sources listed in subsections 1 to 5, inclusive.

Sec. 95. (Deleted by amendment.)

Sec. 96. (Deleted by amendment.)

Sec. 97. (Deleted by amendment.)

Sec. 98. (Deleted by amendment.)

Sec. 99. (Deleted by amendment.)

Sec. 100. (Deleted by amendment.)

Sec. 101. ***"Utilization review organization" means an entity designated by a health carrier to conduct utilization reviews.***

Sec. 102. ***1. Except as otherwise provided in subsection 2, the provisions of NRS 695G.200 to 695G.310, inclusive, and sections 102 to 112, inclusive, of this act apply to all health carriers.***

2. The provisions of subsection 1 do not apply to:

(a) A policy or certificate that provides only coverage for:

(1) A specified disease or accident;

(2) Accidents;

(3) Credit dental;

(4) Disability income;

(5) Hospital indemnity;

(6) Long-term care insurance;

(7) Vision care; or

(8) Any other limited supplemental benefit;

(b) A Medicare supplement policy of insurance, as defined in regulations adopted by the Commissioner;

(c) Coverage under a plan through Medicare, Medicaid or the Federal Employees Health Benefits Program, FEHBP, 5 U.S.C. §§ 8901 et seq.;

(d) Any coverage issued under the Civilian Health and Medical Program of the Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq., and any coverage issued as supplemental to that coverage;

(e) Any coverage issued as supplemental to liability insurance;

(f) Workers' compensation or similar insurance;

(g) Automobile medical payment insurance; or

(h) Any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

Sec. 103. *1. A health carrier shall notify the covered person in writing of the covered person's right to request an external review to be conducted pursuant to NRS 695G.241 to 695G.310, inclusive, and sections 102 to 112, inclusive, of this act and include the appropriate statements and information set forth in subsection 2 at the same time the health carrier sends written notice of an adverse determination upon completion of the health carrier's utilization review process set forth in NRS 683A.375 to 683A.379, inclusive, and the regulations adopted pursuant thereto.*

2. As part of the written notice required pursuant to subsection 1, a health carrier shall include the following, or substantially equivalent, language:

> *We have denied your request for the provision of or payment for a health care service or course of treatment. You may have the right to have our decision reviewed by health care professionals who have no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment you requested by submitting a request for external review to the Office for Consumer Health Assistance.*

3. The Commissioner may prescribe by regulation the form and content of the notice required pursuant to this section.

4. The health carrier shall include in the notice required pursuant to subsection 1 a statement informing the covered person that:

(a) If the covered person has a medical condition where the timeframe for completion of an expedited review of a grievance involving an adverse determination set forth in NRS 695G.200 to 695G.230, inclusive, would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the covered person or the covered person's authorized representative may, at the same time the covered person or the covered person's authorized representative files a request for an expedited review of a grievance involving an adverse determination as set forth in NRS 695G.210, file a request for an expedited external review to be conducted pursuant to NRS 695G.271 and section 107 of this act if the adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational and the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment that is the subject of the adverse determination would be significantly less effective if not promptly initiated, and the independent review organization assigned to conduct the expedited external review will determine whether

the covered person will be required to complete the expedited review of the grievance before conducting the expedited external review; and

(b) The covered person or the covered person's authorized representative may file a grievance under the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive, but if the health carrier has not issued a written decision to the covered person or the covered person's authorized representative within 30 days after the date on which the covered person or the covered person's authorized representative filed the grievance with the health carrier and the covered person or the covered person's authorized representative has not requested or agreed to a delay, the covered person or the covered person's authorized representative may file a request for external review pursuant to NRS 695G.251 and shall be considered to have exhausted the health carrier's internal grievance process.

5. In addition to the information required to be provided pursuant to subsection 1, the health carrier shall include a copy of the description of both the standard and expedited external review procedures the health carrier is required to provide pursuant to section 112 of this act, highlighting the provisions in the external review procedures that give the covered person or the covered person's authorized representative the opportunity to submit additional information and including any forms used to process an external review.

6. As part of any forms provided pursuant to subsection 3, the health carrier shall include an authorization form, or other document approved by the Commissioner that complies with the requirements of 45 C.F.R. § 164.508, by which the covered person, for purposes of conducting an external review, authorizes the health carrier and the covered person's treating health care provider to disclose protected health information, including medical records, concerning the covered person that are pertinent to the external review.

7. As used in this section, "protected health information" has the meaning ascribed to it in 45 C.F.R. § 160.103.

Sec. 104. *1. Except for a request for an expedited external review as set forth in NRS 695G.271 or section 107 of this act, all requests for external review must be made in writing to the Office for Consumer Health Assistance.*

2. The Commissioner may prescribe by regulation the form and content of requests for external review required to be submitted pursuant to this section.

3. A covered person or the covered person's authorized representative may submit a request for an external review of an adverse determination.

Sec. 105. (Deleted by amendment.)

Sec. 106. (Deleted by amendment.)

Sec. 107. *1. Within 4 months after receipt of a notice of an adverse determination pursuant to section 103 of this act that involves a denial of*

coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational, a covered person or the covered person's authorized representative may file a request for external review with the Office for Consumer Health Assistance pursuant to this section.

2. A covered person or the covered person's authorized representative may make an oral request for an expedited external review of the adverse determination pursuant to section 103 of this act that involves a denial of coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational if the covered person's treating physician certifies, in writing, that the recommended or requested health care service or treatment that is the subject of the request would be significantly less effective if not promptly initiated.

3. Upon receipt of a request for an expedited external review pursuant to subsection 2, the Office for Consumer Health Assistance shall immediately notify the health carrier.

4. Immediately upon notice of a request for an expedited external review pursuant to subsection 2, the health carrier shall determine whether the request meets the requirements for review set forth in subsection 12. The health carrier shall immediately notify the Office for Consumer Health Assistance and the covered person and, if applicable, the covered person's authorized representative, of its determination regarding eligibility.

5. The Commissioner may specify the form for the notice of initial determination pursuant to subsection 4 and any supporting information to be included in the notice.

6. The notice of initial determination required by subsection 4 must include a statement that a health carrier's initial determination that a request which is ineligible for external review may be appealed to the Office for Consumer Health Assistance.

7. The Office for Consumer Health Assistance may determine that a request for an expedited external review is eligible for external review pursuant to subsection 12 and require that it be referred for expedited external review notwithstanding a health carrier's initial determination that the request is ineligible.

8. In making a determination pursuant to subsection 7, the decision of the Office for Consumer Health Assistance must be made in accordance with the terms of the covered person's health benefit plan and is subject to all applicable provisions of the external review process.

9. Upon receipt of the notice that the request for expedited external review meets the requirements for review, the Office for Consumer Health Assistance shall immediately assign an independent review organization to conduct the expedited external review from the list of approved independent review organizations compiled and maintained by the

Commissioner pursuant to section 8 of this act and notify the health carrier of the name of the assigned independent review organization.

10. Upon receipt of the notice pursuant to subsection 9, the health carrier or utilization review organization shall provide or transmit any documents and information considered in making the adverse determination to the assigned independent review organization electronically or by telephone or facsimile, or any other available expeditious method.

11. Except as otherwise provided in subsection 3, within 1 business day after receipt of a request for external review pursuant to subsection 1, the Office for Consumer Health Assistance shall notify the health carrier.

12. Within 5 business days after receipt of the notice sent pursuant to subsection 11, the health carrier shall conduct and complete a preliminary review of the request to determine whether:

(a) The person is or was a covered person in the health benefit plan at the time the health care service or treatment was recommended or requested or, in the case of a retrospective review, was a covered person in the health benefit plan at the time the health care service or treatment was provided;

(b) The recommended or requested health care service or treatment that is the subject of the adverse determination:

(1) Would be a covered benefit under the covered person's health benefit plan but for the health carrier's determination that the health care service or treatment is experimental or investigational for a particular medical condition; and

(2) Is not explicitly listed as an excluded benefit under the covered person's health benefit plan;

(c) The covered person's treating physician has certified that one of the following situations is applicable:

(1) Standard health care services or treatments have not been effective in improving the condition of the covered person;

(2) Standard health care services or treatments are not medically appropriate for the covered person; or

(3) There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the recommended or requested health care service or treatment described in paragraph (d);

(d) The covered person's treating physician:

(1) Has recommended a health care service or treatment that the physician certifies, in writing, is likely to be more beneficial to the covered person, in the physician's opinion, than any available standard health care services or treatments; or

(2) Who is a licensed, board certified or board eligible physician qualified to practice in the area of medicine appropriate to treat the covered person's condition, has certified in writing that scientifically valid studies using accepted protocols demonstrate that the health care service or

treatment requested by the covered person that is the subject of the adverse determination is likely to be more beneficial to the covered person than any available standard health care services or treatments;

(e) The covered person has exhausted the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive, unless the covered person is not required to exhaust the health carrier's internal grievance process; and

(f) The covered person has provided all the information and forms required by the Office for Consumer Health Assistance to process an external review, including the release form provided pursuant to subsection 6 of section 103 of this act.

13. Within 1 business day after completion of the preliminary review, the health carrier shall notify the Office for Consumer Health Assistance and the covered person, and, if applicable, the covered person's authorized representative, in writing, whether the request is:

(a) Complete;

(b) Eligible for external review;

(c) Not complete, in which case the health carrier shall include in the notice the information or materials that are needed to make the request complete; or

(d) Not eligible for external review, in which case the health carrier shall include in the notice the reasons for its ineligibility.

14. The Commissioner may specify the form for the notice of initial determination pursuant to subsection 13 and any supporting information to be included in the notice.

15. The notice of initial determination must include a statement informing the covered person and, if applicable, the covered person's authorized representative that a health carrier's initial determination that a request which is ineligible for external review may be appealed to the Office for Consumer Health Assistance.

16. The Office for Consumer Health Assistance may determine that a request is eligible for external review pursuant to subsection 12 and require that it be referred for external review notwithstanding a health carrier's initial determination that the request is ineligible.

17. In making a determination pursuant to subsection 16, the decision of the Office for Consumer Health Assistance must be made in accordance with the terms of the covered person's health benefit plan and is subject to all applicable provisions of the external review process.

18. When a health carrier determines that a request is eligible for external review pursuant to subsection 12, the health carrier shall notify the Office for Consumer Health Assistance and the covered person and, if applicable, the covered person's authorized representative.

19. Within 1 business day after receipt of the notice from the health carrier that the external review request is eligible for external review

pursuant to subsection 18, the Office for Consumer Health Assistance shall:

(a) Assign an independent review organization from the list of approved independent review organizations compiled and maintained by the Commissioner pursuant to section 8 of this act to conduct the external review;

(b) Notify the health carrier of the name of the assigned independent review organization; and

(c) Notify in writing the covered person and, if applicable, the covered person's authorized representative that the request is eligible for external review and provide the name of the assigned independent review organization.

20. The Office for Consumer Health Assistance shall include in the notice provided to the covered person and, if applicable, the covered person's authorized representative pursuant to subsection 19 a statement that the covered person or the covered person's authorized representative may submit in writing to the assigned independent review organization within 5 business days after receipt of the notice provided pursuant to subsection 19 additional information that the independent review organization shall consider when conducting the external review. The independent review organization may accept and consider additional information submitted after the 5 business days have elapsed.

21. Within 1 business day after receipt of the notice of assignment to conduct the external review pursuant to subsection 19, the assigned independent review organization shall:

(a) Select one or more clinical reviewers to conduct the external review, as it determines is appropriate; and

(b) Based on the opinion of the clinical reviewer, or opinions if more than one clinical reviewer has been selected to conduct the external review, make a decision to uphold or reverse the adverse determination.

22. In selecting clinical reviewers pursuant to paragraph (a) of subsection 21, the assigned independent review organization shall select health care professionals who meet the minimum qualifications described in section 9 of this act and through clinical experience in the past 3 years, are experts in the treatment of the covered person's condition and knowledgeable about the recommended or requested health care service or treatment.

23. The covered person, the covered person's authorized representative, if applicable, and the health carrier may not choose or control the choice of the health care professionals to be selected to conduct the external review.

24. In accordance with subsections 37 to 41, inclusive, each clinical reviewer shall provide a written opinion to the assigned independent review organization regarding whether the recommended or requested health care service or treatment should be covered.

25. In reaching an opinion, clinical reviewers are not bound by any decisions or conclusions reached during the health carrier's utilization review process as set forth in NRS 683A.375 to 683A.379, inclusive, or the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive.

26. Within 5 business days after receipt of the notice pursuant to subsection 19, the health carrier or utilization review organization shall provide to the assigned independent review organization any documents and information considered in making the adverse determination.

27. Except as otherwise provided in subsection 28, failure by the health carrier or utilization review organization to provide the documents and information within the time specified in subsection 26 must not delay the conduct of the external review.

28. If the health carrier or utilization review organization fails to provide the documents and information within the time specified in subsection 26, the assigned independent review organization may terminate the external review and make a decision to reverse the adverse determination.

29. If the independent review organization elects to terminate the external review and reverse the adverse determination pursuant to subsection 28, the independent review organization shall immediately notify the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance.

30. Each clinical reviewer selected pursuant to subsection 21 shall review all the information and documents received pursuant to subsections 20 and 26.

31. The assigned independent review organization shall forward any information submitted by the covered person or the covered person's authorized representative pursuant to subsection 20 to the health carrier within 1 business day after receipt of the information.

32. Upon receipt of the information required to be forwarded pursuant to subsection 31, the health carrier may reconsider the adverse determination that is the subject of the external review.

33. Reconsideration by the health carrier of its adverse determination pursuant to subsection 32 must not delay or terminate the external review.

34. Except as otherwise provided in subsection 28, the external review may only be terminated before completion if the health carrier decides, upon completion of its reconsideration, to reverse its adverse determination and provide coverage or payment for the recommended or requested health care service or treatment that is the subject of the adverse determination.

35. If the health carrier reverses its adverse determination pursuant to subsection 28, the health carrier shall immediately notify the covered person, the covered person's authorized representative, if applicable, the

assigned independent review organization and the Office for Consumer Health Assistance in writing of its decision.

36. The assigned independent review organization shall terminate the external review upon receipt of the notice from the health carrier pursuant to subsection 35.

37. Except as otherwise provided in subsection 39, within 20 days after being selected in accordance with subsection 21 to conduct the external review, each clinical reviewer shall provide an opinion to the assigned independent review organization pursuant to subsection 41 regarding whether the recommended or requested health care service or treatment should be covered.

38. Except for an opinion provided pursuant to subsection 39, each clinical reviewer's opinion must be in writing and include the following:

(a) A description of the covered person's medical condition;

(b) A description of the indicators relevant to determine if there is sufficient evidence to demonstrate that the recommended or requested health care service or treatment is more likely to be beneficial to the covered person than any available standard health care services or treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments;

(c) A description and analysis of any medical or scientific evidence considered in reaching the opinion;

(d) A description and analysis of any evidence-based standards used as a basis for the opinion; and

(e) Information concerning whether the reviewer's rationale for the opinion is based on the provisions of subsection 41.

39. For an expedited external review, each clinical reviewer shall provide an opinion orally or in writing to the assigned independent review organization as expeditiously as the covered person's medical condition or circumstances requires, but in no event not more than 5 calendar days after being selected in accordance with subsection 21.

40. If the opinion provided pursuant to subsection 39 was not in writing, within 48 hours after providing that notice, the clinical reviewer shall provide written confirmation of the opinion to the assigned independent review organization and include the information required pursuant to subsection 38.

41. In addition to the documents and information provided pursuant to subsections 10 and 26, each clinical reviewer, to the extent the information or documents are available and the reviewer considers them appropriate, shall consider the following in reaching an opinion:

(a) The covered person's medical records;

(b) The attending health care professional's recommendation;

(c) Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, the

covered person's authorized representative or the covered person's treating provider;

(d) The terms of coverage under the covered person's health benefit plan with the health carrier to ensure that, but for the health carrier's determination that the recommended or requested health care service or treatment that is the subject of the opinion is experimental or investigational, the reviewer's opinion is not contrary to the terms of coverage under the health benefit plan; and

(e) Whether:

(1) The recommended or requested health care service or treatment has been approved by the Food and Drug Administration, if applicable, for the condition; or

(2) Medical or scientific evidence or evidence-based standards demonstrate that the expected benefits of the recommended or requested health care service or treatment is more likely to be beneficial to the covered person than any available standard health care services or treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments.

42. Except as otherwise provided in subsection 43, within 20 days after receipt of the opinion of each clinical reviewer pursuant to subsection 41, the assigned independent review organization, in accordance with subsection 45 or 46, shall make a decision and provide written notice of the decision to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance and include the information required pursuant to subsection 50.

43. For an expedited external review, within 48 hours after receipt of the opinion of each clinical reviewer pursuant to subsection 41, the assigned independent review organization, in accordance with subsection 45 or 46, shall make a decision and provide notice of the decision orally or in writing to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance.

44. If the notice provided pursuant to subsection 43 was not in writing, within 48 hours after providing that notice, the assigned independent review organization shall provide written confirmation of the decision to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance and include the information required pursuant to subsection 50.

45. If a majority of the clinical reviewers recommend that the recommended or requested health care service or treatment should be covered, the independent review organization shall make a decision to reverse the health carrier's adverse determination.

46. If a majority of the clinical reviewers recommend that the recommended or requested health care service or treatment should not be covered, the independent review organization shall make a decision to uphold the health carrier's adverse determination.

47. If the clinical reviewers are evenly split as to whether the recommended or requested health care service or treatment should be covered, the independent review organization shall obtain the opinion of an additional clinical reviewer in order for the independent review organization to make a decision based on the opinions of a majority of the clinical reviewers pursuant to subsection 45 or 46.

48. The additional clinical reviewer selected pursuant to subsection 47 shall use the same information to reach an opinion as the clinical reviewers who have already submitted their opinions pursuant to subsection 41.

49. The selection of an additional clinical reviewer pursuant to subsection 47 must not extend the time within which the assigned independent review organization is required to make a decision based on the opinions of the clinical reviewers pursuant to subsection 42.

50. The independent review organization shall include in the notice provided pursuant to subsection 42 or 44:

(a) A general description of the reason for the request for external review;

(b) The written opinion of each clinical reviewer, including the recommendation of each clinical reviewer as to whether the recommended or requested health care service or treatment should be covered and the rationale for the reviewer's recommendation;

(c) The date the independent review organization was assigned by the Office for Consumer Health Assistance to conduct the external review;

(d) The date on which the external review was conducted;

(e) The date of the decision;

(f) The principal reason or reasons for the decision; and

(g) The rationale for the decision.

51. Upon receipt of a notice of a decision pursuant to subsection 42 or 44 reversing the adverse determination, the health carrier shall immediately approve coverage of the recommended or requested health care service or treatment that was the subject of the adverse determination.

52. The assignment by the Office for Consumer Health Assistance of an approved independent review organization to conduct an external review in accordance with this section must be done on a random basis among those approved independent review organizations qualified to conduct the particular external review based on the nature of the health care service or treatment that is the subject of the adverse determination and other circumstances, including concerns regarding conflicts of interest pursuant to subsection 4 of section 9 of this act.

53. As used in this section:

(a) "Best evidence" means evidence based on:

(1) Randomized clinical trials;

(2) If randomized clinical trials are not available, cohort studies or case-control studies;

(3) If the methods described in subparagraphs (1) and (2) are not available, case series; or

(4) If the methods described in subparagraphs (1), (2) and (3) are not available, expert opinion.

(b) "Evidence-based standard" means the conscientious, explicit and judicious use of the current best evidence based on the overall systematic review of research in making decisions about the care of an individual patient.

(c) "Randomized clinical trial" means a controlled, prospective study of patients who have been randomized into an experimental group and a control group at the beginning of the study with only the experimental group of patients receiving a specific intervention, which includes study of the groups for variables and anticipated outcomes over time.

Sec. 108. (Deleted by amendment.)

Sec. 109. (Deleted by amendment.)

Sec. 110. ***1. An independent review organization assigned pursuant to NRS 695G.251 or 695G.271 or section 107 of this act to conduct an external review shall maintain written records, aggregated for each state and for each health carrier, on all requests for which it conducted an external review during a calendar year and, upon request, submit a report to the Office for Consumer Health Assistance in a format specified by the Commissioner.***

2. The report must include, aggregated for each state and for each health carrier:

(a) The total number of requests for external review;

(b) The number of requests for external review resolved and, of those resolved, the number upholding the adverse determination and the number reversing the adverse determination;

(c) The average length of time for resolution;

(d) A summary of the types of coverages or cases for which an external review was sought;

(e) The number of external reviews that were terminated as the result of a reconsideration by the health carrier of its adverse determination after receipt of additional information from the covered person or the covered person's authorized representative pursuant to subsection 4 of NRS 695G.251 and subsection 32 of section 107 of this act; and

(f) Any other information the Office for Consumer Health Assistance may request or require.

3. An independent review organization shall retain the written records required pursuant to this section for at least 3 years.

4. Each health carrier shall maintain written records, aggregated for each state and for each type of health benefit plan offered by the health carrier, on all requests for external review for which the health carrier receives notice from the Office for Consumer Health Assistance and, upon request, submit a report to the Office for Consumer Health Assistance in a format specified by the Commissioner.

5. The report must include, aggregated for each state and for each type of health benefit plan:

(a) The total number of requests for external review;

(b) Of the total number of requests for external review, the number of requests determined to be eligible for external review; and

(c) Any other information the Office for Consumer Health Assistance may request or require.

6. A health carrier shall retain the written records required pursuant to this section for at least 3 years.

Sec. 111. (Deleted by amendment.)

Sec. 112. ***1. A health carrier shall include a description of the external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage or other evidence of coverage it provides to covered persons.***

2. The description required by subsection 1 must be in a format prescribed by the Commissioner.

3. The description required by subsection 1 must include a statement that informs the covered person of the right of the covered person to file a request for an external review of an adverse determination with the Office for Consumer Health Assistance. The statement may explain that external review is available when the adverse determination involves an issue of medical necessity, appropriateness, health care setting, level of care or effectiveness. The statement must include the telephone number and address of the Office for Consumer Health Assistance.

4. In addition to the requirements of subsection 3, the statement must inform the covered person that, when filing a request for an external review, the covered person will be required to authorize the release of any medical records of the covered person that may be required to be reviewed for the purpose of reaching a decision on the external review.

Sec. 113. NRS 695G.010 is hereby amended to read as follows:

695G.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~[695G.020]~~ ***695G.012*** to 695G.080, inclusive, ***and sections 71 to 101, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 114. NRS 695G.012 is hereby amended to read as follows:

695G.012 "Adverse determination" means a determination ~~[of a managed care organization to deny all or part of a service or procedure that is proposed or being provided to an insured on the basis that it is not medically necessary or appropriate or is experimental or investigational. The term does~~

~~not include a determination of a managed care organization that such an allocation is not a covered benefit.]~~ ***by a health carrier or utilization review organization that an admission, availability of care, continued stay or other health care service that is a covered benefit has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the requested service or payment for the service is therefore denied, reduced or terminated.***

Sec. 115. NRS 695G.014 is hereby amended to read as follows:

695G.014 "Authorized representative" means ~~[a]~~ ***:***

1. A person ~~[who has obtained the consent of an insured]~~ ***to whom a covered person has given express written consent*** to represent ~~[him or her]~~ ***the covered person*** in an external review of ~~[a final]~~ ***an*** adverse determination conducted pursuant to NRS 695G.241 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act;***

2. A person authorized by law to provide substituted consent for a covered person; or

3. A family member of a covered person or the covered person's treating provider only when the covered person is unable to provide consent.

Sec. 116. NRS 695G.018 is hereby amended to read as follows:

695G.018 ~~["External]~~ ***"Independent*** review organization" means an ~~[organization]~~ ***entity*** that:

1. Conducts an ***independent*** external review of ~~[a final]~~ ***an*** adverse determination; and

2. Is certified by the Commissioner in accordance with ~~[NRS 683A.371.]~~ ***sections 8 and 9 of this act.***

Sec. 116.3. NRS 695G.070 is hereby amended to read as follows:

695G.070 "Provider of health care" means ~~[any]~~ ***:***

1. A physician ~~[, hospital]~~ or other ~~[person]~~ ***health care practitioner*** who is licensed or otherwise authorized in this State to furnish any health care service ~~[.]~~ ***; and***

2. An institution providing health care services or other setting in which health care services are provided, including, without limitation, a hospital, surgical center for ambulatory patients, facility for skilled nursing, residential facility for groups, laboratory and any other such licensed facility.

Sec. 116.7. NRS 695G.080 is hereby amended to read as follows:

695G.080 1. "Utilization review" means the various methods that may be used ~~[by a managed care organization]~~ to review the amount and appropriateness of the provision of a specific health care service ***.*** ~~[to an insured.]~~

2. The term does not include an external review of ~~[a final]~~ ***an*** adverse determination conducted pursuant to NRS 695G.241 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 117. (Deleted by amendment.)

Sec. 118. NRS 695G.230 is hereby amended to read as follows:

695G.230 1. After approval by the Commissioner, each ~~[managed care organization]~~ ***health carrier*** shall provide a written notice to an insured, in clear and comprehensible language that is understandable to an ordinary layperson, explaining the right of the insured to file a written complaint and to obtain an expedited review pursuant to NRS 695G.210. Such a notice must be provided to an insured:

(a) At the time the insured receives his or her certificate of coverage or evidence of coverage;

(b) Any time that the ~~[managed care organization]~~ ***health carrier*** denies coverage of a health care service or limits coverage of a health care service to an insured; and

(c) Any other time deemed necessary by the Commissioner.

2. If a ~~[managed care organization]~~ ***health carrier*** denies coverage of a health care service to an insured, including, without limitation, a health maintenance organization that denies a claim related to a health care plan pursuant to NRS 695C.185, it shall notify the insured in writing within 10 working days after it denies coverage of the health care service of:

(a) The reason for denying coverage of the service;

(b) The criteria by which the ~~[managed care organization]~~ ***health carrier*** or insurer determines whether to authorize or deny coverage of the health care service;

(c) The right of the insured to:

(1) File a written complaint and the procedure for filing such a complaint;

(2) Appeal ~~[a final]~~ ***an*** adverse determination pursuant to NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[.]~~ ***, of this act;***

(3) Receive an expedited external review of ~~[a final]~~ ***an*** adverse determination if the ~~[managed care organization]~~ ***health carrier*** receives proof from the insured's provider of health care that failure to proceed in an expedited manner may jeopardize the life or health of the insured, including notification of the procedure for requesting the expedited external review; and

(4) Receive assistance from any person, including an attorney, for an external review of ~~[a final]~~ ***an*** adverse determination; and

(d) The telephone number of the Office for Consumer Health Assistance.

3. A written notice which is approved by the Commissioner shall be deemed to be in clear and comprehensible language that is understandable to an ordinary layperson.

Sec. 118.1. NRS 695G.241 is hereby amended to read as follows:

695G.241 ~~[1. For]~~ ***Except as otherwise required for an expedited external review pursuant to NRS 695G.271 or section 107 of this act, for*** the purposes of NRS 695G.200 to 695G.310, inclusive, ***and sections 102 to***

112, inclusive, of this act, an adverse determination ~~[is final if the insured has exhausted all procedures set forth in the health care plan for reviewing the adverse determination within the managed care organization.~~

~~2. An adverse determination shall be deemed final for the purpose of submitting the adverse determination to an external review organization for]~~ ***may be subject to*** an external review:

~~[(a)]~~ ***1.*** If ~~[an insured]~~ ***a covered person*** exhausts all procedures set forth in the health care plan for reviewing the adverse determination within the ~~[managed care organization]~~ ***health carrier*** and the ~~[managed care organization]~~ ***health carrier*** fails to render a decision within the period required to render that decision set forth in the health care plan; or

~~[(b)]~~ ***2.*** If the ~~[managed care organization submits]~~ ***health carrier allows the covered person to submit*** the adverse determination to the ~~[external]~~ ***independent*** review organization without requiring the ~~[insured]~~ ***covered person*** to exhaust all procedures set forth in the health care plan for reviewing the adverse determination within the ~~[managed care organization.]~~ ***health carrier.***

Sec. 118.2. NRS 695G.251 is hereby amended to read as follows:

695G.251 1. If ~~[an insured]~~ ***a covered person*** or a physician of ~~[an insured]~~ ***a covered person*** receives notice of ~~[a final]~~ ***an*** adverse determination from a ~~[managed care organization]~~ ***health carrier*** concerning the ~~[insured, and if the insured is required to pay $500 or more for the health care services that are the subject of the final adverse determination, the insured,]~~ ***covered person, the covered person,*** the physician of the ~~[insured]~~ ***covered person*** or an authorized representative may, within ~~[60 days]~~ ***4 months*** after receiving notice of the ~~[final]~~ adverse determination, submit a request to the ~~[managed care organization]~~ ***Office for Consumer Health Assistance*** for an external review of the ~~[final]~~ adverse determination.

2. Within 5 days after receiving a request pursuant to subsection 1, the ~~[managed care organization]~~ ***Office for Consumer Health Assistance*** shall notify the ~~[insured,]~~ ***covered person,*** the authorized representative or physician of the ~~[insured,]~~ ***covered person,*** the agent who performed utilization review for the ~~[managed care organization,]~~ ***health carrier,*** if any, and the ~~[Office for Consumer Health Assistance]~~ ***health carrier*** that the request has been filed with the ~~[managed care organization.]~~ ***Office for Consumer Health Assistance.***

3. As soon as practicable after receiving a ~~[notice]~~ ***request*** pursuant to subsection ~~[2,]~~ ***1,*** the Office for Consumer Health Assistance shall assign an ~~[external]~~ ***independent*** review organization from the list maintained pursuant to ~~[NRS 683A.371.]~~ ***section 8 of this act.*** Each assignment made pursuant to this subsection must be completed on a rotating basis.

4. Within 5 days after receiving notification from the Office for Consumer Health Assistance specifying the ~~[external]~~ ***independent*** review organization assigned pursuant to subsection 3, the ~~[managed care organization]~~ ***health carrier*** shall provide to the ~~[external]~~ ***independent***

review organization all documents and materials relating to the ~~[~~final~~]~~ adverse determination, including, without limitation:

(a) Any medical records of the insured relating to the external review;

(b) A copy of the provisions of the health ~~[~~care~~]~~ ***benefit*** plan upon which the ~~[~~final~~]~~ adverse determination was based;

(c) Any documents used by the ~~[~~managed care organization~~]~~ ***health carrier*** to make the ~~[~~final~~]~~ adverse determination;

(d) The reasons for the ~~[~~final~~]~~ adverse determination; and

(e) Insofar as practicable, a list that specifies each provider of health care who has provided health care to the ~~[~~insured~~]~~ ***covered person*** and the medical records of the provider of health care relating to the external review.

Sec. 118.3. NRS 695G.261 is hereby amended to read as follows:

695G.261 1. Except as otherwise provided in NRS 695G.271 ~~[~~,~~]~~ ***and section 107 of this act,*** upon receipt of a request for an external review pursuant to NRS 695G.251, the ~~[~~external~~]~~ ***independent*** review organization shall, within 5 days after receiving the request:

(a) Review the request and the documents and materials submitted pursuant to NRS 695G.251; and

(b) Notify the ~~[~~insured,~~]~~ ***covered person,*** the physician of the ~~[~~insured~~]~~ ***covered person*** and the ~~[~~managed care organization~~]~~ ***health carrier*** if any additional information is required to conduct a review of the ~~[~~final~~]~~ adverse determination. ***Such additional information must be provided within 5 days after receiving notice that the information is required to conduct a review of the adverse determination. The independent review organization shall forward to the health carrier, within 1 business day after receipt, any information received from a covered person or the physician of a covered person.***

2. Except as otherwise provided in NRS 695G.271 ~~[~~,~~]~~ ***and section 107 of this act,*** the ~~[~~external~~]~~ ***independent*** review organization shall approve, modify or reverse the ~~[~~final~~]~~ adverse determination within 15 days after it receives the information required to make that determination pursuant to this section. The ~~[~~external~~]~~ ***independent*** review organization shall submit a copy of its determination, including the reasons therefor, to:

(a) The ~~[~~insured;~~]~~ ***covered person;***

(b) The physician of the ~~[~~insured;~~]~~ ***covered person;***

(c) The authorized representative of the ~~[~~insured,~~]~~ ***covered person,*** if any; and

(d) The ***health carrier.***

Sec. 118.4. NRS 695G.271 is hereby amended to read as follows:

695G.271 1. ~~[~~A managed care organization~~]~~ ***The Office for Consumer Health Assistance*** shall approve or deny a request for an external review of ~~[~~a final~~]~~ ***an*** adverse determination in an expedited manner not later than 72 hours after it receives proof from the ~~[~~insured's~~]~~ provider of health care ***of the covered person*** that ~~[~~failure~~]~~ ***:***

(a) The adverse determination concerns an admission, availability of care, continued stay or health care service for which the covered person received emergency services but has not been discharged from the facility providing the services or care; or

(b) Failure to proceed in an expedited manner may jeopardize the life or health of the ~~[insured.]~~ ***covered person or the ability of the covered person to regain maximum function.***

2. If ~~[a managed care organization]~~ ***the Office for Consumer Health Assistance*** approves a request for an external review pursuant to subsection 1, the ~~[managed care organization]~~ ***Office for Consumer Health Assistance*** shall ~~[~~:

~~(a) In accordance with subsections 4 and 5,]~~ assign the request to an ~~[external]~~ ***independent*** review organization not later than 1 working day after approving the request ***.*** ~~[; and~~

~~(b) At the time of]~~ ***Each assignment made by the Office for Consumer Health Assistance pursuant to this section must be completed on a rotating basis.***

3. Within 24 hours after receiving notice of the Officer for Consumer Health Assistance assigning the request, ***the health carrier shall*** provide to the ~~[external]~~ ***independent*** review organization all documents and materials specified in subsection 4 of NRS 695G.251.

~~[3.]~~ ***4.*** An ~~[external]~~ ***independent*** review organization that is assigned to conduct an external review pursuant to subsection 2 shall, if it accepts the assignment:

(a) Complete its external review not later than ~~[2 working days]~~ ***48 hours*** after receiving the assignment, unless the ~~[insured]~~ ***covered person*** and the ~~[managed care organization]~~ ***health carrier*** agree to a longer period;

(b) Not later than ~~[1 working day]~~ ***24 hours*** after completing its external review, notify the ~~[insured,]~~ ***covered person,*** the physician of the ~~[insured,]~~ ***covered person,*** the authorized representative ***,*** ~~[of the insured,]~~ if any, and the ~~[managed care organization]~~ ***health carrier*** by telephone of its determination; and

(c) Not later than ~~[5 working days]~~ ***48 hours*** after completing its external review, submit a written decision of its external review to the ~~[insured,]~~ ***covered person,*** the physician of the ~~[insured,]~~ ***covered person,*** the authorized representative ***,*** ~~[of the insured,]~~ if any, and the ~~[managed care organization.~~

~~4. At least once each month, the Office for Consumer Health Assistance shall designate at least 2 external review organizations to conduct external reviews in an expedited manner pursuant to this section. As soon as practicable after designating an external review organization pursuant to this section, the Office for Consumer Health Assistance shall notify each managed care organization of the designation.~~

~~5. As soon as practicable after assigning an external review organization to conduct an external review pursuant to this section, the managed care~~

~~organization shall notify the Office for Consumer Health Assistance of the assignment. Each assignment made by a managed care organization pursuant to this section must be completed on a rotating basis.]~~ ***health carrier.***

Sec. 118.5. NRS 695G.280 is hereby amended to read as follows:

695G.280 The decision of an ~~[external]~~ ***independent*** review organization concerning a request for an external review must be based on:

1. Documentary evidence, including any recommendation of the physician of the insured submitted pursuant to NRS 695G.251;

2. Medical ***or scientific*** evidence, including, without limitation:

(a) Professional standards of safety and effectiveness for diagnosis, care and treatment that are generally recognized in the United States;

(b) Any report published in literature that is peer-reviewed;

(c) Evidence-based medicine, including, without limitation, reports and guidelines that are published by professional organizations that are recognized nationally and that include supporting scientific data; and

(d) An opinion of an independent physician who, as determined by the ~~[external]~~ ***independent*** review organization, is an expert in the health specialty that is the subject of the external review; and

3. The terms and conditions for benefits set forth in the evidence of coverage issued to the insured by the ***health carrier.***

Sec. 118.6. NRS 695G.290 is hereby amended to read as follows:

695G.290 1. If the determination of an ~~[external]~~ ***independent*** review organization concerning an external review of ~~[a final]~~ ***an*** adverse determination is in favor of the ~~[insured,]~~ ***covered person,*** the determination is final, conclusive and binding upon the ~~[managed care organization.]~~ ***health carrier.***

2. An ~~[external]~~ ***independent*** review organization or any clinical peer who conducts or participates in an external review of ~~[a final]~~ ***an*** adverse determination for the ~~[external]~~ ***independent*** review organization is not liable in a civil action for damages relating to a determination made by the ~~[external]~~ ***independent*** review organization if the determination is made in good faith and without gross negligence.

3. The cost of conducting an external review of ~~[a final]~~ ***an*** adverse determination pursuant to NRS 695G.241 to 695G.310, inclusive, ***and sections 102 to 112, inclusive, of this act*** must be paid by the ~~[managed care organization]~~ ***health carrier*** that made the ~~[final]~~ adverse determination.

Sec. 118.7. NRS 695G.300 is hereby amended to read as follows:

695G.300 In lieu of resolving a complaint of ~~[an insured]~~ ***a covered person*** in accordance with a system for resolving complaints established pursuant to the provisions of NRS 695G.200, a ~~[managed care organization]~~ ***health carrier*** may:

1. Submit the complaint to an ~~[external]~~ ***independent*** review organization pursuant to the provisions of NRS 695G.241 to 695G.310, inclusive ~~[,]~~ ***, and sections 102 to 112, inclusive, of this act;*** or

2. If a federal law or regulation provides a procedure for submitting the complaint for resolution that the Commissioner determines is substantially similar to the procedure for submitting the complaint to an ~~[external]~~ ***independent*** review organization pursuant to NRS 695G.241 to 695G.310, inclusive, ***and sections 102 to 112, inclusive, of this act,*** submit the complaint for resolution in accordance with the federal law or regulation.

Sec. 118.8. NRS 695G.310 is hereby amended to read as follows:

695G.310 On or before December 31 of each year, each ~~[managed care organization]~~ ***health carrier*** shall file a written report with the Office for Consumer Health Assistance setting forth the total number of:

1. Requests for ***an*** external review ~~[that were received by the managed care organization]~~ ***of an adverse decision made by the health carrier which were granted by the Office for Consumer Health Assistance*** during the immediately preceding year; and

2. ~~[Final adverse]~~ ***Adverse*** determinations of the ~~[managed care organization]~~ ***health carrier*** that were:

(a) Upheld during the immediately preceding year.

(b) Reversed during the immediately preceding year.

Sec. 119. NRS 695H.090 is hereby amended to read as follows:

695H.090 1. An application for registration to engage in business as a medical discount plan must be submitted on a form prescribed by the Commissioner. The form must be signed by an officer or an authorized representative of the applicant. Except as otherwise provided in this section, the application must be accompanied by:

(a) A registration fee of $500 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

(b) A copy of the organizational documents of the applicant, if any.

(c) A list of names, addresses, positions of employment and biographical information of each person who is responsible for conducting the business activities of the medical discount plan of the applicant, including, but not limited to, all members of the board of directors, board of trustees, officers and managers. The list must set forth the extent and nature of any contracts or other agreements between any person who is responsible for conducting the business activities of the applicant and the medical discount plan, including disclosure of any possible conflicts of interest.

(d) A complete biographical statement, on a form prescribed by the Commissioner, describing the facilities, employees and services that will be offered by the applicant.

(e) A copy of all forms used for contracts between the applicant and networks of providers of health care regarding the provision of health care or medical services to members.

(f) A copy of the most recent financial statements of the applicant, audited by an independent certified public accountant.

(g) A description of the method of marketing proposed by the applicant.

(h) A description of the procedures for making a complaint to be established and maintained by the applicant.

(i) Any other information required by the Commissioner.

2. Each person who registers a medical discount plan must renew the registration ~~[annually]~~ ***on or*** before ~~[the registration expires.]~~ ***March 1 of each year.*** Except as otherwise provided in this section, an application to renew the registration must include:

(a) An annual renewal fee of $500 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110; and

(b) Any information set forth in subsection 1 that the Commissioner requires to be included in the application.

3. An administrator or insurer that registers a medical discount plan is not required to pay the fees for registering or renewing the registration of the medical discount plan pursuant to this section.

4. The Commissioner shall, by regulation, designate the provisions of subsection 1 that shall be deemed satisfied by an administrator, insurer or affiliate of an insurer that has complied with substantially similar requirements pursuant to other provisions of this title.

Sec. 120. NRS 695H.180 is hereby amended to read as follows:

695H.180 A person who violates any provision of this chapter or an order or regulation of the Commissioner issued or adopted pursuant thereto may be assessed an administrative penalty by the Commissioner of not more than $2,000 for each act or violation**.** ~~[, not to exceed an aggregate amount of $10,000 for violations of a similar nature. For the purposes of this section, violations shall be deemed to be of a similar nature if the violations consist of the same or similar conduct, regardless of the number of times the conduct occurred.]~~

Sec. 121. NRS 697.173 is hereby amended to read as follows:

697.173 1. Except as otherwise provided in subsection ~~[2,]~~ ***4,*** a person is entitled to receive, renew or hold a license as a bail enforcement agent if the person:

(a) Is a natural person not less than 21 years of age.

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(c) Has a high school diploma or a general equivalency diploma or has an equivalent education as determined by the Commissioner.

(d) Has ~~[submitted to the Commissioner a report of an investigation of the criminal history of the person from the Central Repository for Nevada Records of Criminal History which indicates that the person possesses the qualifications for licensure as a bail enforcement agent.]~~ ***complied with the requirements of subsection 4 of NRS 697.180.***

(e) Has submitted to the Commissioner the results of an examination conducted by a psychiatrist or psychologist licensed to practice in this state which indicate that the person does not suffer from a psychological condition

that would adversely affect the ability of the person to carry out his or her duties as a bail enforcement agent.

(f) Has passed any written examination required by this chapter.

(g) Submits to the Commissioner the results of a test to detect the presence of a controlled substance in the system of the person that was administered no earlier than 30 days before the date of the application for the license which do not indicate the presence of any controlled substance for which the person does not possess a current and lawful prescription issued in the name of the person.

(h) Successfully completes the training required by NRS 697.177.

2. A person is not entitled to receive, renew or hold a license of a bail enforcement agent if the person:

(a) Has been convicted of a felony in this state or of any offense committed in another state which would be a felony if committed in this state; or

(b) Has been convicted of an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance.

Sec. 122. NRS 697.180 is hereby amended to read as follows:

697.180 1. A written application for a license as a bail agent, general agent, bail enforcement agent or bail solicitor must be filed with the Commissioner by the applicant, accompanied by the applicable fees. The application form must:

(a) Include the social security number of the applicant; ***and***

(b) ~~[Be accompanied by a complete set of the applicant's fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(c)]~~ Require full answers to questions reasonably necessary to determine the applicant's:

(1) Identity and residence.

(2) Business record or occupations for not less than the 2 years immediately preceding the date of the application, with the name and address of each employer, if any.

(3) Prior criminal history, if any.

2. The Commissioner may require the submission of such other information as may be required to determine the applicant's qualifications for the license for which the applicant applied.

3. The applicant must verify his or her application. An applicant for a license under this chapter shall not knowingly misrepresent or withhold any fact or information called for in the application form or in connection therewith.

4. Each applicant must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

Sec. 123. NRS 223.580 is hereby amended to read as follows:

223.580 On or before February 1 of each year, the Director shall submit a written report to the Governor, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:

1. A statement setting forth the number and geographic origin of the written and telephonic inquiries received by the Office for Consumer Health Assistance and the issues to which those inquiries were related;

2. A statement setting forth the type of assistance provided to each consumer and injured employee who sought assistance from the Director, including, without limitation, the number of referrals made to the Attorney General pursuant to subsection 7 of NRS 223.560;

3. A statement setting forth the disposition of each inquiry and complaint received by the Director; and

4. A statement setting forth the number of external reviews conducted by ~~[external]~~ ***independent*** review organizations pursuant to NRS 695G.241 to

695G.310, ***inclusive, and sections 102 to 112,*** inclusive, ***of this act,*** and the disposition of ~~[each of]~~ those reviews as reported pursuant to NRS 695G.310 ~~[.]~~ ***and section 110 of this act.***

Sec. 124. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive, ***of this act*** and 695G.405, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 125. NRS 422.273 is hereby amended to read as follows:

422.273 1. For any Medicaid managed care program established in the State of Nevada, the Department shall contract only with a health maintenance organization that has:

(a) Negotiated in good faith with a federally-qualified health center to provide health care services for the health maintenance organization;

(b) Negotiated in good faith with the University Medical Center of Southern Nevada to provide inpatient and ambulatory services to recipients of Medicaid; and

(c) Negotiated in good faith with the University of Nevada School of Medicine to provide health care services to recipients of Medicaid.

➥ Nothing in this section shall be construed as exempting a federally-qualified health center, the University Medical Center of Southern Nevada or the University of Nevada School of Medicine from the requirements for contracting with the health maintenance organization.

2. During the development and implementation of any Medicaid managed care program, the Department shall cooperate with the University of Nevada School of Medicine by assisting in the provision of an adequate and diverse group of patients upon which the school may base its educational programs.

3. The University of Nevada School of Medicine may establish a nonprofit organization to assist in any research necessary for the development of a Medicaid managed care program, receive and accept gifts, grants and donations to support such a program and assist in establishing educational services about the program for recipients of Medicaid.

4. For the purpose of contracting with a Medicaid managed care program pursuant to this section, a health maintenance organization is exempt from the provisions of NRS 695C.123.

5. The provisions of this section apply to any managed care organization, including a health maintenance organization, that provides health care services to recipients of Medicaid under the State Plan for Medicaid or the Children's Health Insurance Program pursuant to a contract with the Division. Such a managed care organization or health maintenance organization is not required to establish a system for conducting external

reviews of ~~[final]~~ adverse determinations in accordance with chapter 695B, 695C or 695G of NRS. This subsection does not exempt such a managed care organization or health maintenance organization for services provided pursuant to any other contract.

6. As used in this section, unless the context otherwise requires:

(a) "Federally-qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

(b) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.

(c) "Managed care organization" has the meaning ascribed to it in NRS 695G.050.

Sec. 126. NRS 616A.235 is hereby amended to read as follows:

616A.235 ~~["External]~~ ***"Independent*** review organization" means an organization which has been issued a certificate pursuant to NRS 616A.469 that authorizes the organization to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS.

Sec. 127. NRS 616A.469 is hereby amended to read as follows:

616A.469 1. The Commissioner may issue certificates authorizing qualified ~~[external]~~ ***independent*** review organizations to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS. If the Commissioner issues such certificates and the Commissioner determines that an ~~[external]~~ ***independent*** review organization is qualified to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS, the Commissioner shall issue a certificate to the ~~[external]~~ ***independent*** review organization that authorizes the organization to conduct such external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner.

2. The Commissioner may adopt regulations setting forth the procedures that an ~~[external]~~ ***independent*** review organization must follow to be issued a certificate to conduct external reviews. Any regulations adopted pursuant to this section must include, without limitation, provisions setting forth:

(a) The manner in which an ~~[external]~~ ***independent*** review organization may apply for a certificate and the requirements for the issuance and renewal of the certificate pursuant to this section;

(b) The grounds for which the Commissioner may refuse to issue, suspend, revoke or refuse to renew a certificate issued pursuant to this section;

(c) The manner and circumstances under which an ~~[external]~~ ***independent*** review organization is required to conduct its business; and

(d) Any applicable fees for issuing or renewing a certificate of an ~~[external]~~ ***independent*** review organization pursuant to this section.

3. A certificate issued pursuant to this section expires 1 year after it is issued and may be renewed in accordance with regulations adopted by the Commissioner.

4. Before the Commissioner may issue a certificate to an ~~[external]~~ ***independent*** review organization, the ~~[external]~~ ***independent*** review organization must:

(a) Demonstrate to the satisfaction of the Commissioner that it is able to carry out, in a timely manner, the duties of an ~~[external]~~ ***independent*** review organization as set forth in NRS 616C.363 and the regulations adopted by the Commissioner. The demonstration must include, without limitation, proof that the ~~[external]~~ ***independent*** review organization employs, contracts with or otherwise retains only persons who are qualified because of their education, training, professional licensing and experience to perform the duties assigned to those persons; and

(b) Provide assurances satisfactory to the Commissioner that the ~~[external]~~ ***independent*** review organization will:

(1) Conduct external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner;

(2) Render its decisions in a clear, consistent, thorough and timely manner; and

(3) Avoid conflicts of interest.

5. For the purposes of this section, an ~~[external]~~ ***independent*** review organization has a conflict of interest if the ~~[external]~~ ***independent*** review organization or any employee, agent or contractor of the ~~[external]~~ ***independent*** review organization who conducts an external review has a professional, familial or financial interest of a material nature with respect to any person who has a substantial interest in the outcome of the external review, including, without limitation:

(a) The claimant;

(b) The employer; or

(c) The insurer or any officer, director or management employee of the insurer.

6. The Commissioner shall not issue a certificate to an ~~[external]~~ ***independent*** review organization that is affiliated with:

(a) An organization for managed care which provides comprehensive medical and health care services to employees for injuries or diseases pursuant to chapters 616A to 617, inclusive, of NRS;

(b) An insurer;

(c) A third-party administrator; or

(d) A national, state or local trade association.

7. An ~~[external]~~ ***independent*** review organization which is certified or accredited by an accrediting body that is nationally recognized shall be deemed to have satisfied all the conditions and qualifications required for the ~~[external]~~ ***independent*** review organization to be issued a certificate pursuant to this section.

Sec. 128. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. ~~[For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an]~~ ***An*** employee leasing company which complies with

the provisions of NRS 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the employees it leases to a client company. ***The provisions of this subsection apply only for the purposes of chapters 612 and 616A to 617, inclusive, of NRS.***

2. ~~[If an employee leasing company complies with the provisions of subsection 3, the]~~ ***An*** employee leasing company shall be deemed to be ~~[the]~~ ***an*** employer of its leased employees for the purposes of ***offering,*** sponsoring and maintaining any benefit plans ***.*** ~~[, including, without limitation, for the purposes of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.]~~ ***The provisions of this subsection do not affect the employer-employee relationship that exists between a leased employee and a client company.***

3. An employee leasing company shall not offer ***, sponsor or maintain for*** its ***leased*** employees any self-funded ~~[industrial]~~ insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS ~~[.]~~ ***or title 57 of NRS.***

4. If an employee leasing company fails to:

(a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required,

➥ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 129. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him or her on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Order an independent medical examination and refer the employee to a physician or chiropractor of his or her choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating

physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an ~~[external]~~ ***independent*** review organization, submit the matter to an ~~[external]~~ ***independent*** review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. The appeals officer may consider the opinion of an examining physician or chiropractor, in addition to the opinion of an authorized treating physician or chiropractor, in determining the compensation payable to the injured employee.

5. If an injured employee has requested payment for the cost of obtaining a second determination of his or her percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

6. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

7. Any party to the appeal or contested case or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

8. Except as otherwise provided in subsection 9, the appeals officer shall render a decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

9. The appeals officer shall render a decision on a contested claim submitted pursuant to subsection 2 of NRS 616C.345 within 15 days after:

(a) The date of the hearing; or

(b) If the appeals officer orders an independent medical examination, the date the appeals officer receives the report of the examination,

➥ unless both parties to the contested claim agree to a later date.

10. The appeals officer may affirm, modify or reverse any decision made by a hearing officer and issue any necessary and proper order to give effect to his or her decision.

Sec. 130. NRS 616C.363 is hereby amended to read as follows:

616C.363 1. Not later than 5 business days after the date that an ~~[external]~~ ***independent*** review organization receives a request for an external review, the ~~[external]~~ ***independent*** review organization shall:

(a) Review the documents and materials submitted for the external review; and

(b) Notify the injured employee, his or her employer and the insurer whether the ~~[external]~~ ***independent*** review organization needs any additional information to conduct the external review.

2. The ~~[external]~~ ***independent*** review organization shall render a decision on the matter not later than 15 business days after the date that it receives all information that is necessary to conduct the external review.

3. In conducting the external review, the ~~[external]~~ ***independent*** review organization shall consider, without limitation:

(a) The medical records of the insured;

(b) Any recommendations of the physician of the insured; and

(c) Any other information approved by the Commissioner for consideration by an ~~[external]~~ ***independent*** review organization.

4. In its decision, the ~~[external]~~ ***independent*** review organization shall specify the reasons for its decision. The ~~[external]~~ ***independent*** review organization shall submit a copy of its decision to:

(a) The injured employee;

(b) The employer;

(c) The insurer; and

(d) The appeals officer, if any.

5. The insurer shall pay the costs of the services provided by the ~~[external]~~ ***independent*** review organization.

6. The Commissioner may adopt regulations to govern the process of external review and to carry out the provisions of this section. Any regulations adopted pursuant to this section must provide that:

(a) All parties must agree to the submission of a matter to an ~~[external]~~ ***independent*** review organization before a request for external review may be submitted;

(b) A party may not be ordered to submit a matter to an ~~[external]~~ ***independent*** review organization; and

(c) The findings and decisions of an ~~[external]~~ ***independent*** review organization are not binding.

Sec. 131. NRS 683A.371, ~~[683A.373,]~~ 684A.155, 686A.225, 689A.360, 689A.625 and 689C.105 are hereby repealed.

Sec. 132. 1. This section and sections **9.5 and 51.9 of this act become effective upon passage and approval.**

2. Sections 1 to **9, inclusive, 10 to 51.7, inclusive, 52 to** 56, inclusive, and 58 to 131, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

~~[2.]~~ **3.** Section 57 of this act becomes effective on January 1, 2013.

~~[3.]~~ **4.** Sections 23, 24, 25, 45, 47, 59, 60 and 122 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS

683A.371 Certification; conflicts of interest; annual list.

~~[683A.373 Submission of annual list to Office for Consumer Health Assistance.]~~

684A.155 Limited license: Commissioner authorized to issue to adjuster licensed in adjoining state; terms; powers.

686A.225 Certain insurers to retain adjuster who resides in this State.

689A.360 Filing of rates.

689A.625 Supplemental coverage not health benefit plan if individual carrier files annual certification with Commissioner.

689C.105 "Supplemental coverage" defined.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 903 to Assembly Bill No. 74 makes numerous changes at the request of the Commissioner of Insurance.

The amendment also provides that an employee leasing company may be deemed a "large employer" for purposes pertaining to fully-insured health benefit plans and specifies that certain provisions affecting employee leasing companies are effective upon passage and approval.

The amendment provides limited coverage by the Nevada Life and Health Insurance Guaranty Association for unallocated annuity contracts offered to participants in all governmental deferred compensation plans.

Amendment adopted.

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

Assembly Bill No. 123.

Bill read third time.

Roll call on Assembly Bill No. 123:

YEAS—21.

NAYS—None.

Assembly Bill No. 123 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 222.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 926.

"SUMMARY—Creates the Teachers and Leaders Council of Nevada. (BDR 34-873)"

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

Legislative Counsel's Digest:

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

Existing law requires the automated system of accountability information for Nevada to track the achievement of pupils over time and to identify which teachers ~~[and paraprofessionals]~~ are assigned to individual pupils. The information is required to be considered, but must not be the sole criterion, in evaluating the performance of or taking disciplinary action against an individual teacher ~~[, paraprofessional]~~ or other employee. (NRS 386.650) Existing law also requires the board of trustees of each school district to develop a policy for the evaluation of teachers and administrators pursuant to which the performance of an individual teacher or administrator is designated as "satisfactory" or "unsatisfactory." (NRS 391.3125, 391.3127) **Section 7** of this bill requires the State Board of Education, based upon the recommendations of the Council, to establish a statewide performance evaluation system for teachers and administrators employed by school districts. Effective July 1, 2013, the statewide performance evaluation system will require the evaluation of an individual teacher or administrator as "highly effective," "effective," "minimally effective" or "ineffective." ~~[Also effective July 1, 2013, section 2 of this bill]~~ **Assembly Bill No. 229 of this session, which was enacted by the Legislature on June 2, 2011,** requires that certain information on pupil achievement which is maintained by the automated system of accountability information for Nevada account for **at least** 50 percent of the evaluations of teachers and administrators. **Sections 2**

and 7 of this bill make conforming changes on the use of pupil achievement data in the evaluation of teachers and administrators as the requirements on the use of that data contained in Assembly Bill No. 229. Sections 8.5 and 9.5 of this bill require the policies for the evaluations of teachers and administrators employed by school districts to comply with the statewide performance evaluation system established by the State Board.

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

Assembly Bill No. 229 of this session, provides that if the written evaluation of a probationary teacher or probationary administrator states that the overall performance of the teacher or administrator has been designated as "unsatisfactory," the evaluation must include a written statement which states that if the teacher or administrator has received two evaluations for the school year which designate his or her performance as "unsatisfactory" and the teacher or administrator has another evaluation remaining in the school year, the teacher or administrator may request that the remaining evaluation be conducted by another administrator. Section 10.3 of this bill amends Assembly Bill No. 229 to provide that the probationary teacher or probationary administrator may make such a request if the teacher or administrator receives an "unsatisfactory" evaluation on the first or second evaluation, or both evaluations. Effective on July 1, 2013, section 10.4 of this bill amends Assembly Bill No. 229 to provide that the probationary teacher or probationary administrator may make such a request for an outside evaluator if he or she receives an evaluation of "minimally effective" or "ineffective" on the first or second evaluation, or both evaluations.

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

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

Section 1. (Deleted by amendment.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The Superintendent of Public Instruction shall:

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

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

(c) Prescribe the format for the data;

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

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

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

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

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

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

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

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the

Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

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

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

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

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

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

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

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

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

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

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

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

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

unexpired term. A vacancy must be filled in the same manner as the original appointment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The statewide performance evaluation system must:

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

(1) Highly effective;

(2) Effective;

(3) Minimally effective; or

(4) Ineffective.

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

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

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

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

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

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. ***The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.*** The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must

be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

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

(a) December 1;

(b) February 1; and

(c) April 1,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must ~~[set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.]~~ ***comply with the statewide performance evaluation system established by the State Board pursuant to section 7 of this act.*** The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

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

(a) December 1;

(b) February 1; and

(c) April 1,

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

each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.

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

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

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

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

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

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

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

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

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

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

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

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

to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.

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

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

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

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

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

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

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

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

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

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

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

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

4. If a probationary employee receives notice pursuant to subsection 4 of NRS 391.3125 not later than March 1 of a potential decision not to reemploy him or her, the employee may request a supplemental evaluation by another administrator in the school district selected by the employee and the superintendent. If a school district has five or fewer administrators, the supplemental evaluator may be an administrator from another school district in this State. If a probationary employee has received during the first school year of the employee's probationary period three evaluations which state that the employee's overall performance has been ~~[satisfactory,]~~ ***highly effective***

or effective, the superintendent of schools of the school district or the superintendent's designee shall waive the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of the employee's probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.

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

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

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

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

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

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

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

Sec. 10.3. **Section 9 of Assembly Bill No. 229 of this session is hereby amended to read as follows:**

Sec. 9. ***1. If a written evaluation of a probationary teacher or probationary administrator designates the overall performance of the teacher or administrator as "unsatisfactory":***

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive ~~*[two evaluations for this school year which designate your performance as]*~~ ***an 'unsatisfactory*** ~~*[.']*~~ ***' evaluation on the first or second evaluation, or both evaluations for this school year, and if you have another evaluation remaining this school year, you may request that the evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in correcting the deficiencies reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in correcting those deficiencies."***

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator requests assistance in correcting deficiencies reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in correcting those deficiencies.

Sec. 10.4. **Section 20 of Assembly Bill No. 229 of this session is hereby amended to read as follows:**

Sec. 20. Section 9 of this act is hereby amended to read as follows:

Sec. 9. 1. If a written evaluation of a probationary teacher or probationary administrator designates the overall performance of the teacher or administrator as ~~["unsatisfactory":]~~ ***"minimally effective" or "ineffective":***

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive ~~[an]~~ ~~['unsatisfactory']~~ ***a 'minimally effective' or 'ineffective'*** evaluation on the first or second evaluation, or both evaluations for this school year, and if you have another evaluation remaining this school year, you may request that the evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in correcting the deficiencies reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in correcting those deficiencies."

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator requests assistance in correcting deficiencies reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in correcting those deficiencies.

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

For the Fiscal Year 2011-2012 .....$24,000

For the Fiscal Year 2012-2013 .....$8,000

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the Department of Education or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2012, and September 20, 2013, respectively, by either the Department of Education or the entity to which the money from the appropriation was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2012, and September 20, 2013, respectively.

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

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

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

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

1. The Governor shall appoint to the Council the members described in:

(a) Paragraph (c) of subsection 1 of section 5 of this act to initial terms of 2 years.

(b) Paragraphs (d) and (e) of subsection 1 of section 5 of this act to initial terms of 3 years.

(c) Paragraphs (f) and (g) of subsection 1 of section 5 of this act to initial terms of 1 year.

2. The Superintendent of Public Instruction shall appoint to the Council the members described in paragraph (h) of subsection 1 of section 5 of this act to initial terms of 3 years.

Sec. 15. 1. This section and sections 3 to 8, inclusive, 9, **10.3,** 10.5 and 11 to 14, inclusive, of this act become effective on July 1, 2011.

2. Sections 1, 2, 8.5, 9.5**,** ~~[and]~~ 10 **and 10.4** of this act become effective on July 1, 2013.

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. 926 to Senate Bill No. 222 provides that at least 50 percent of the performance evaluation contain student achievement data as specified in Assembly Bill No. 229. There is an amendment for Assembly Bill No. 229 to clarify that if a probationary teacher receives a negative evaluation on the first or second evaluation or both, the teacher may request a third evaluation be conducted by another evaluator selected from a list of three candidates submitted by the Superintendent of the school district. After July 1, 2013, that language changes to those receiving a "minimally effective" or "ineffective" on those performance evaluations.

Amendment adopted.

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

Assembly Bill No. 300.
Bill read third time.
Roll call on Assembly Bill No. 300:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 300 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 316.
Bill read third time.
Roll call on Assembly Bill No. 316:
YEAS—21.
NAYS—None.

Assembly Bill No. 316 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 345.
Bill read third time.
Roll call on Assembly Bill No. 345:
YEAS—21.
NAYS—None.

Assembly Bill No. 345 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 380.
Bill read third time.
Roll call on Assembly Bill No. 380:
YEAS—21.
NAYS—None.

Assembly Bill No. 380 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 574.
Bill read third time.
Roll call on Assembly Bill No. 574:
YEAS—21.
NAYS—None.

Assembly Bill No. 574 having received a constitutional majority, Mr. President declared it passed.
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 9:57 p.m.

SENATE IN SESSION

At 10:55 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Revenue, to which was re-referred Senate Bill No. 493, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 493.

Bill read third time.

The following amendment was proposed by the Committee on Revenue:

Amendment No. 927.

"SUMMARY—Creates the Mining Oversight and Accountability Commission and revises the provisions governing ~~[the calculation of the net proceeds of mines.]~~ **certain mining taxes and fees.** (BDR 32-1152)"

"AN ACT relating to mining; creating the Mining Oversight and Accountability Commission and establishing its membership, powers and duties; revising provisions governing the calculation of net proceeds from certain mining operations conducted in this State; **repealing a fee imposed on certain filings regarding mining claims;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law does not provide for a single administrative body to oversee the activities of the various state agencies that have responsibility for the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 5** of this bill creates the Mining Oversight and Accountability Commission **.** ~~[. Two members of the Commission are]~~ **, consisting of seven members** appointed by the Governor. ~~[The]~~ **Two of the members must be recommended by the** Majority Leader of the Senate and **two by** the Speaker of the Assembly **.** ~~[each appoint two additional members.]~~ In the first biennium, ~~[the seventh member is appointed]~~ **one member must be recommended** by the Minority Leader of the Senate. In the next biennium, ~~[the seventh member is appointed]~~ **one member must be recommended** by the Minority Leader of the Assembly. The ~~[appointment continues to alternate]~~ **authority of the Minority Leader of the Senate and the Minority Leader of the Assembly to make those recommendations alternates** each biennium thereafter. **Section 7** of this bill requires the Commission to provide oversight of compliance with Nevada

law relating to the activities of each state agency ~~[or political subdivision]~~ with respect to the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 7** also identifies particular state entities that are subject to the supervision of the Commission with respect to their activities related to mines and mining: (1) the Nevada Tax Commission and the Department of Taxation in the taxation of the net proceeds of minerals; (2) the Division of Industrial Relations of the Department of Business and Industry concerning the safe and healthful working conditions at mines; (3) the Commission on Mineral Resources and the Division of Minerals of the Commission; (4) the Bureau of Mines and Geology of the State of Nevada; and (5) the Division of Environmental Protection of the State Department of Conservation and Natural Resources in its activities concerning the reclamation of land used in mining. **Sections 8 and 13-16** of this bill establish certain reports and other information that those entities are required to provide to the Commission. **Section 11** of this bill authorizes the Commission to request the Legislative Commission to direct the Legislative Auditor to provide for a special audit or investigation of the activities of any state agency, board, bureau, commission or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 12** of this bill provides that certain regulations of the Nevada Tax Commission, Administrator of the Division of Industrial Relations, Commission on Mineral Resources and the State Environmental Commission concerning mines and mining are not effective unless they are ~~[approved]~~ **reviewed** by the **Mining Oversight and Accountability** Commission ~~[. Section 12.5]~~ **before being approved by the Legislative Commission. Sections 12.5 and 12.7** of this bill ~~[revises]~~ **revise** provisions governing the calculation of net proceeds from certain mining operations conducted in this State.

During the 26th Special Session in 2010, the Legislature enacted a law imposing a fee on the filing of an affidavit of the work performed on or improvements made to a mining claim or an affidavit of the intent to hold a mining claim, if the person who holds the mining claim holds 11 or more mining claims in this State. (NRS 517.187) Section 16.3 of this bill repeals that law. Section 16.7 of this bill allows any person who paid that fee to receive a credit of the amount paid against any liability of the person for the state modified business tax or, if that is not practical, a refund of the amount paid.

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

Section 1. Chapter 362 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12 inclusive, of this act.

Sec. 2. ***As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Chair" means the Chair of the Commission.***

Sec. 4. *"Commission" means the Mining Oversight and Accountability Commission created by section 5 of this act.*

Sec. 5. *1. There is hereby created the Mining Oversight and Accountability Commission consisting of seven members appointed as follows:*

(a) Two members appointed by the Governor;

(b) Two members appointed by the Governor from a list of persons recommended by the Majority Leader of the Senate;

(c) Two members appointed by the Governor from a list of persons recommended by the Speaker of the Assembly; and

(d) One member appointed by the Governor from a list of persons recommended by the Minority Leader of the Senate or the Minority Leader of the Assembly. The Minority Leader of the Senate shall recommend persons for appointment for the initial term, the Minority Leader of the Assembly shall recommend persons for appointment for the next succeeding term, and thereafter, the authority to recommend persons for appointment must alternate each biennium between the Houses of the Legislature.

2. The Governor, Majority Leader of the Senate, Speaker of the Assembly, Minority Leader of the Senate and Minority Leader of the Assembly shall confer before ~~[making]~~ the Governor makes an appointment to ensure that:

(a) Not more than two of the members are appointed from any one county in this State; and

(b) Not more than two of the members have a direct or indirect financial interest in the mining industry or are related by blood or marriage to a person who has such an interest.

3. Each member of the Commission serves for a term of 2 years.

4. A vacancy on the Commission must be filled by the ~~[appointing authority]~~ Governor in the same manner as the original appointment.

Sec. 6. *1. The Commission shall elect one of its members as Chair and another as Vice Chair, who shall serve for a term of 1 year or until their successors are elected and qualified.*

2. The Commission shall meet at least once each calendar quarter and may meet at other times on the call of the Chair or a majority of its members.

3. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.

4. While engaged in the business of the Commission, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Executive Director of the Department shall assign employees of the Department to provide such technical, clerical and operational

assistance to the Commission as the functions and operations of the Commission may require.

Sec. 7. *Notwithstanding any other provision of law, the Commission shall provide oversight of compliance with Nevada law relating to the activities of each state agency, board, bureau, commission, department, ~~[,]~~ or division ~~[or political subdivision]~~ with respect to the taxation, operation, safety and environmental regulation of mines and mining in this State, including, without limitation, the activities of:*

1. The Nevada Tax Commission and the Department of Taxation in the taxation of the net proceeds of minerals pursuant to this chapter and Section 5 of Article 10 of the Nevada Constitution.

2. The Division of Industrial Relations of the Department of Business and Industry in administering the provisions of chapter 512 of NRS concerning the safe and healthful working conditions at mines.

3. The Commission on Mineral Resources and the Division of Minerals of the Commission in the administration of the provisions of chapters 513 and 522 of NRS concerning the conduct of mining operations and operations for the production of oil, gas and geothermal energy in the State.

4. The Bureau of Mines and Geology of the State of Nevada in the Public Service Division of the Nevada System of Higher Education in its administration of the provisions of chapter 514 of NRS.

5. The Division of Environmental Protection of the State Department of Conservation and Natural Resources in its administration of the provisions of chapter 519A of NRS concerning the reclamation of mined land, areas of exploration and former areas of mining or exploration.

Sec. 8. *In addition to any other information requested by the Commission pursuant to section 9 of this act:*

1. The Administrator of the Division of Industrial Relations of the Department of Business and Industry shall submit to the Commission at its first regular meeting in each calendar year the report that is required pursuant to NRS 512.140 concerning the functions of the Administrator under chapter 512 of NRS concerning the creation and maintenance of safe and healthful working conditions at mines in this State during the immediately preceding calendar year.

2. The Department of Taxation shall submit to the Commission at the second regular meeting of the Commission in each calendar year:

(a) An audit program identifying each mining operator or other person who is required to file a statement concerning the extraction of minerals in this State pursuant to NRS 362.100 to 362.240, inclusive, that the Department intends to audit during the immediately following calendar year;

(b) A report of the results of each audit of a mining operator or other person completed by the Department during the immediately preceding calendar year; and

(c) A report of the status of each audit of a mining operator or other person that is in process at the time of the report.

3. The Division of Environmental Protection of the State Department of Conservation and Natural Resources shall submit to the Commission at its third regular meeting in each calendar year a report concerning the Division's activities concerning the reclamation of mined lands, areas of exploration and former areas of mining or exploration during the immediately preceding calendar year, including, without limitation, an accounting of the amounts of fees collected for permits issued by the Division and any fines imposed by the Division.

Sec. 9. *1. In conducting the investigations and hearings of the Commission:*

(a) The Chair or any member designated by the Chair may administer oaths.

(b) The Chair may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chair may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the Chair may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission which is named in the subpoena, or has refused to answer questions propounded to the witness,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Commission.

3. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why the witness has not attended or testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

Sec. 10. *1. Each witness who appears before the Commission by its order, except a state officer or employee, is entitled to receive for such*

attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State.

2. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Chair of the Commission.

Sec. 11. ***1. The Commission may submit a request to the Legislative Commission that the Legislative Auditor be directed to undertake, or to contract with a qualified accounting firm to undertake, a special audit or investigation of the activities of any state agency, board, bureau, commission or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State.***

2. The request submitted pursuant to subsection 1 must be accompanied by an explanation of the circumstances that give rise to the request.

Sec. 12. ***A permanent regulation adopted by the:***

1. Nevada Tax Commission, pursuant to NRS 360.090, concerning any taxation related to the extraction of any mineral in this State, including, without limitation, the taxation of the net proceeds pursuant to this chapter and Section 5 of Article 10 of the Nevada Constitution;

2. Administrator of the Division of Industrial Relations of the Department of Business and Industry for mine health and safety pursuant to NRS 512.131;

3. Commission on Mineral Resources pursuant to 513.063, 513.094 or 519A.290; and

4. State Environmental Commission pursuant to NRS 519A.160,

➥ is not effective unless it is [approved] reviewed by the Mining Oversight and Accountability Commission [.] before it is approved pursuant to chapter 233B of NRS by the Legislative Commission or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067. After conducting its review of the regulation, the Mining Oversight and Accountability Commission shall provide a report of its findings and recommendations regarding the regulation to the Legislative Counsel for submission to the Legislative Commission or the Subcommittee to Review Regulations, as appropriate.

Sec. 12.5. NRS 362.120 is hereby amended to read as follows:

362.120 1. The Department shall, from the statement filed pursuant to NRS 362.110 and from all obtainable data, evidence and reports, compute in dollars and cents the gross yield and net proceeds of the calendar year immediately preceding the year in which the statement is filed.

2. The gross yield must include the value of any mineral extracted which was:

(a) Sold;

(b) Exchanged for any thing or service;

(c) Removed from the State in a form ready for use or sale; or

(d) Used in a manufacturing process or in providing a service,

➥ during that period.

3. The net proceeds are ascertained and determined by subtracting from the gross yield the following deductions for costs incurred during that period, and none other:

(a) The actual cost of extracting the mineral ~~[.]~~ ***, which is limited to direct costs for activities performed in the State of Nevada.***

(b) The actual cost of transporting the mineral to the place or places of reduction, refining and sale.

(c) The actual cost of reduction, refining and sale.

(d) The actual cost of ~~[marketing and]~~ delivering the mineral ***.*** ~~[and the conversion of the mineral into money.]~~

(e) The actual cost of maintenance and repairs of:

(1) All machinery, equipment, apparatus and facilities used in the mine.

(2) All milling, refining, smelting and reduction works, plants and facilities.

(3) All facilities and equipment for transportation except those that are under the jurisdiction of the Public Utilities Commission of Nevada or the Nevada Transportation Authority.

(f) ~~[The actual cost of fire insurance on the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e).~~

~~(g)]~~ Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e). The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada Tax Commission ~~[.]~~ ***and approved by the Mining Oversight and Accountability Commission created by section 5 of this act.*** The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

~~[(h) All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for all employees.~~

~~(i)]~~ ***(g)*** All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in chapter 612 of NRS, all money paid as contributions under the Social Security Act of the Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this paragraph.

~~[(j)]~~ ***(h) The costs of employee travel which occurs within the State of Nevada and which is directly related to mining operations within the State of Nevada.***

(i) The costs of Nevada-based corporate services relating to paragraphs (e) to (h), inclusive.

(j) The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit ~~[.~~

~~(k)~~ ***, which is limited to work that is necessary to the operation of the mine or group of mines.***

(k) The costs of reclamation work in the years the reclamation work occurred, including, without limitation, costs associated with the remediation of a site.

(l) All money paid as royalties by a lessee or sublessee of a mine or well, or by both, in determining the net proceeds of the lessee or sublessee, or both.

4. Royalties deducted by a lessee or sublessee constitute part of the net proceeds of the minerals extracted, upon which a tax must be levied against the person to whom the royalty has been paid.

5. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the Department on forms provided by the Department. ***The Department shall report annually to the Mining Oversight and Accountability Commission the expenses and deductions of each mining operation in the State of Nevada.***

6. The several deductions mentioned in subsection 3 do not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

(a) The working of the mine;

(b) The operating of the mill, smelter or reduction works;

(c) The operating of the facilities or equipment for transportation;

(d) Superintending the management of any of those operations; ~~[or]~~

(e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations ~~[.]~~ ***; or***

(f) Nevada-based corporate services.

7. The following expenses are specifically excluded from any deductions from the gross yield:

(a) The costs of employee housing.

(b) Except as otherwise provided in paragraph (h) of subsection 3, the costs of employee travel.

(c) The costs of severing the employment of any employees.

(d) Any dues paid to a third-party organization or trade association to promote or advertise a product.

(e) Expenses relating to governmental relations or to compensate a natural person or entity to influence legislative decisions.

(f) The costs of mineral exploration.

(g) Any federal, state or local taxes.

8. As used in this section, "Nevada-based corporate services" means corporate services which are performed in the State of Nevada from an office located in this State and which directly support mining operations in this State, including, without limitation, accounting functions relating to mining operations at a mine site in this State such as payroll, accounts

payable, production reporting, cost reporting, state and local tax reporting and recordkeeping concerning property.

Sec. 12.7. **NRS 362.120 is hereby amended to read as follows:**

362.120 1. The Department shall, from the statement filed pursuant to NRS 362.110 and from all obtainable data, evidence and reports, compute in dollars and cents the gross yield and net proceeds of the calendar year immediately preceding the year in which the statement is filed.

2. The gross yield must include the value of any mineral extracted which was:

(a) Sold;

(b) Exchanged for any thing or service;

(c) Removed from the State in a form ready for use or sale; or

(d) Used in a manufacturing process or in providing a service,

➥ during that period.

3. The net proceeds are ascertained and determined by subtracting from the gross yield the following deductions for costs incurred during that period, and none other:

(a) The actual cost of extracting the mineral, which is limited to direct costs for activities performed in the State of Nevada.

(b) The actual cost of transporting the mineral to the place or places of reduction, refining and sale.

(c) The actual cost of reduction, refining and sale.

(d) The actual cost of delivering the mineral.

(e) The actual cost of maintenance and repairs of:

(1) All machinery, equipment, apparatus and facilities used in the mine.

(2) All milling, refining, smelting and reduction works, plants and facilities.

(3) All facilities and equipment for transportation except those that are under the jurisdiction of the Public Utilities Commission of Nevada or the Nevada Transportation Authority.

(f) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e). The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada Tax Commission and approved by the Mining Oversight and Accountability Commission created by section 5 of this act. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

(g) ***All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for employees actually engaged in mining operations within the State of Nevada.***

(h) All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in chapter 612 of NRS, all money paid as contributions under the Social Security Act of the

Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this paragraph.

~~[(h)]~~ ***(i)*** The costs of employee travel which occurs within the State of Nevada and which is directly related to mining operations within the State of Nevada.

~~[(i)]~~ ***(j)*** The costs of Nevada-based corporate services relating to paragraphs (e) to ~~[(h),]~~ ***(i),*** inclusive.

~~[(j)]~~ ***(k)*** The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit, which is limited to work that is necessary to the operation of the mine or group of mines.

~~[(k)]~~ ***(l)*** The costs of reclamation work in the years the reclamation work occurred, including, without limitation, costs associated with the remediation of a site.

~~[(l)]~~ ***(m)*** All money paid as royalties by a lessee or sublessee of a mine or well, or by both, in determining the net proceeds of the lessee or sublessee, or both.

4. Royalties deducted by a lessee or sublessee constitute part of the net proceeds of the minerals extracted, upon which a tax must be levied against the person to whom the royalty has been paid.

5. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the Department on forms provided by the Department. The Department shall report annually to the Mining Oversight and Accountability Commission the expenses and deductions of each mining operation in the State of Nevada.

6. The several deductions mentioned in subsection 3 do not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

(a) The working of the mine;

(b) The operating of the mill, smelter or reduction works;

(c) The operating of the facilities or equipment for transportation;

(d) Superintending the management of any of those operations;

(e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations; or

(f) Nevada-based corporate services.

7. The following expenses are specifically excluded from any deductions from the gross yield:

(a) The costs of employee housing.

(b) Except as otherwise provided in paragraph ~~[(h)]~~ ***(i)*** of subsection 3, the costs of employee travel.

(c) The costs of severing the employment of any employees.

(d) Any dues paid to a third-party organization or trade association to promote or advertise a product.

(e) Expenses relating to governmental relations or to compensate a natural person or entity to influence legislative decisions.

(f) The costs of mineral exploration.

(g) Any federal, state or local taxes.

8. As used in this section, "Nevada-based corporate services" means corporate services which are performed in the State of Nevada from an office located in this State and which directly support mining operations in this State, including, without limitation, accounting functions relating to mining operations at a mine site in this State such as payroll, accounts payable, production reporting, cost reporting, state and local tax reporting and recordkeeping concerning property.

Sec. 13. NRS 512.140 is hereby amended to read as follows:

512.140 The Administrator shall submit annually to the Governor, ***and to the Mining Oversight and Accountability Commission created by section 5 of this act,*** as soon as practicable after the beginning of each calendar year, a full report of the administration of the Administrator's functions under this chapter during the preceding calendar year. The report must include, either in summary or detailed form, the information obtained by the Administrator under this chapter together with such findings and comments thereon and such recommendations as the Administrator may deem proper.

Sec. 14. NRS 513.063 is hereby amended to read as follows:

513.063 The Commission shall:

1. Keep itself informed of and interested in the entire field of legislation and administration charged to the Division.

2. Report to the Governor ***, the Mining Oversight and Accountability Commission created by section 5 of this act*** and the Legislature on all matters which it may deem pertinent to the Division, and concerning any specific matters previously requested by the Governor ~~,~~ ***or the Mining Oversight and Accountability Commission.***

3. Advise and make recommendations to the Governor ***, the Mining Oversight and Accountability Commission*** and the Legislature concerning the policy of this State relating to minerals.

4. Formulate the administrative policies of the Division.

5. Adopt regulations necessary for carrying out the duties of the Commission and the Division.

Sec. 15. NRS 513.093 is hereby amended to read as follows:

513.093 The Administrator:

1. Shall coordinate the activities of the Division.

2. Shall report to the Commission upon all matters pertaining to the administration of the Division.

3. ***Shall attend each regular meeting of the Mining Oversight and Accountability Commission created by section 5 of this act and each special meeting if requested by the Chair of that Commission and:***

(a) Report to the Mining Oversight and Accountability Commission on the activities of the Division undertaken since the Division's previous

report, including, without limitation, an accounting of any fees or fines imposed or collected;

(b) The current condition of mining and of exploration for and production of oil, gas and geothermal energy in the State; and

(c) Provide any technical information required by the Mining Oversight and Accountability Commission during the course of the meeting.

4. Shall submit a biennial report to the Governor and the Legislature through the Commission concerning the work of the Division, with recommendations that the Administrator may deem necessary. The report must set forth the facts relating to the condition of mining and of exploration for and production of oil and gas in the State.

Sec. 16. Chapter 514 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director of the Bureau of Mines and Geology shall attend each regular meeting of the Mining Oversight and Accountability Commission created by section 5 of this act and each special meeting if requested by the Chair of the Commission and:

1. Report to the Commission on the activities of the Bureau of Mines and Geology undertaken by the Bureau since its previous report, including, without limitation, the current condition of mining and of exploration for and production of oil and gas in the State; and

2. Provide any technical information required by the Commission during the course of the meeting.

Sec. 16.3. **NRS 517.187 is hereby repealed.**

Sec. 16.7. **1. Any person who paid any fee, interest or penalty imposed pursuant to NRS 517.187 may, on or before June 30, 2013, apply to the Department of Taxation pursuant to this section for a credit or refund of the total amount paid by the person pursuant to NRS 517.187.**

2. Upon the receipt of an application pursuant to subsection 1 and proof to the satisfaction of the Department of Taxation of the total amount paid by the applicant pursuant to NRS 517.187, the Department shall:

(a) Except as otherwise provided in paragraph (b), allow the applicant a credit of the total amount paid by the person pursuant to NRS 517.187 against any liability of the person for the tax imposed pursuant to NRS 363B.110, and carry any unused portion of the credit forward until the credit is exhausted; or

(b) If the Department determines that it is impractical to provide a full credit to the applicant pursuant to paragraph (a), cause to be refunded to the applicant the total amount paid by the applicant pursuant to NRS 517.187.

3. A person who paid any fee, interest or penalty imposed pursuant to NRS 517.187 is not entitled to receive any penalty or interest on the amount paid.

4. The failure of any person to apply to the Department of Taxation pursuant to subsection 1 within the time prescribed constitutes a waiver of any demand against the State for any credit or refund of any fee, interest or penalty paid by or on behalf of the person pursuant to NRS 517.187.

5. Each county recorder shall, upon the request of the Department of Taxation, provide to the Department such documentation as the Department determines to be necessary to verify the total amount paid pursuant to NRS 517.187 by any person who applies to the Department pursuant to subsection 1.

6. All refunds made pursuant to this section must be paid from the State General Fund upon claims presented by the Department of Taxation, approved by the State Board of Examiners, and allowed and paid as other claims against the State are allowed and paid.

Sec. 17. The Department of Taxation shall submit to the Mining Oversight and Accountability Commission created by section 5 of this act at the first regular meeting of the Commission following the effective date of this ~~[act]~~ **section** a comprehensive audit program that sets forth the Department's plan for completing an audit of every mining operator or other person who is required to file a statement concerning the extraction of minerals in this State pursuant to NRS 362.100 to 362.240, inclusive.

Sec. 17.3. The amendatory provisions of section 12.5 of this act:

1. Do not apply to or affect any determination of gross yield or net proceeds required pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2011.

2. Apply for the purposes of estimating and determining gross yield and net proceeds pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2012 and each calendar year thereafter.

Sec. 17.5. **The amendatory provisions of section 12.7 of this act:**

1. Do not apply to or affect any determination of gross yield or net proceeds required pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2013.

2. Apply for the purposes of estimating and determining gross yield and net proceeds pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2014 and each calendar year thereafter.

Sec. 17.7. 1. The Nevada Tax Commission, on or before January 1, 2012, and subject to the requirements of section 12 of this act, shall adopt regulations to carry out the provisions of NRS 362.120, as amended by section 12.5 of this act.

2. In adopting regulations pursuant to subsection 1, the Nevada Tax Commission shall amend or repeal any of its existing regulations that conflict or are inconsistent with the provisions of NRS 362.120, as amended by section 12.5 of this act.

Sec. 18. Notwithstanding the provisions of section 5 of this act, as soon as practicable after the effective date of this ~~[act:~~

~~1. The Governor, Majority Leader of the Senate and Speaker of the Assembly shall each~~] **section, the Governor shall** appoint to the Mining Oversight and Accountability Commission created by section 5 of this act:

[~~(a)~~] **1.** One member **pursuant to paragraph (a), (b) and (c), respectively, of subsection 1 of that section** whose term expires on June 30, 2012; and

[~~(b)~~] **2.** One member **pursuant to paragraph (a), (b), (c) and (d), respectively, of subsection 1 of that section** whose term expires on June 30, 2013.

~~[2. The Minority Leader of the Senate shall appoint to the Mining Oversight and Accountability Commission created by section 5 of this act one member whose term expires on June 30, 2013.]~~

Sec. 19. 1. This section and sections 1 to 12, inclusive, and 13 to 18, inclusive, of this act become effective upon passage and approval.

2. Section 12.5 of this act becomes effective on January 1, 2012.

3. Section 12.7 of this act becomes effective on January 1, 2014.

TEXT OF REPEALED SECTION

517.187 Additional fee for filing made pursuant to NRS 517.230. [Effective through June 30, 2011.]

1. An additional fee is hereby imposed upon each filing made pursuant to NRS 517.230 regarding a mining claim held by a person who holds 11 or more mining claims in this State on the date of that filing, in the amount determined in accordance with subsection 2. The person making that filing shall remit the fee to the county recorder in such a manner that, at the option of that person:

(a) The fee is paid in full at the time of the filing;

(b) One-half of the fee is paid at the time of the filing and the remainder of the fee is paid not later than June 1 of the calendar year immediately following the filing date; or

(c) The fee is paid in full not later than June 1 of the calendar year immediately following the filing date.

2. If the greatest number of mining claims held in this State by any of the persons who hold any of the mining claims to which a filing made pursuant to NRS 517.230 pertains is:

(a) Not less than 11 and not more than 199 on the date of that filing, the fee imposed by this section is $70 for each mining claim to which the filing pertains.

(b) Not less than 200 and not more than 1,299 on the date of that filing, the fee imposed by this section is $85 for each mining claim to which the filing pertains.

(c) Not less than 1,300 on the date of that filing, the fee imposed by this section is $195 for each mining claim to which the filing pertains.

3. The county recorder shall:

(a) Obtain from each person who makes a filing pursuant to NRS 517.230 an affidavit declaring that the greatest number of mining

claims held in this State on the date of that filing by any of the persons who hold any of the mining claims to which the filing pertains is:

(1) Less than 11;

(2) Not less than 11 and not more than 199;

(3) Not less than 200 and not more than 1,299; or

(4) Not less than 1,300; and

(b) Based upon the information set forth in that affidavit, collect any fee imposed on that filing pursuant to this section.

4. Any person who:

(a) Fails to pay the fee imposed pursuant to this section within the time required shall pay a penalty in the amount of 10 percent of the amount of the fee that is owed, in addition to the fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the date on which the fee is due until the date of payment.

(b) Knowingly makes a false declaration in an affidavit provided to a county recorder pursuant to subsection 3 is guilty of a misdemeanor and shall pay the amount of any additional fee, penalty and interest required pursuant to this section on account of the falsification.

5. The county recorder shall, on or before the fifth working day of each month, deposit with the county treasurer all the fees, penalties and interest imposed pursuant to this section which are collected during the preceding month. The county treasurer shall quarterly remit all money so collected to the State Controller, who shall place the money in the State General Fund.

6. The State Controller shall take such action as may be necessary to ensure that the fees, penalties and interest imposed pursuant to this section are paid in full.

Senator Leslie moved the adoption of the amendment.

Remarks by Senators Leslie and Kieckhefer.

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

SENATOR LESLIE:

Amendment No. 927 to Senate Bill No. 493 revises the process by which appointments are made to the Mining Oversight and Accountability Commission to require members to be recommended rather than directly appointed by the Majority Leader of the Senate, the Speaker of the Assembly and the Minority Leader of each House. The Governor would then make the actual appointment of the members from these recommendations.

The amendment removes the political subdivisions from the list of entities subject to oversight of compliance with Nevada law by the Mining Oversight and Accountability Commission.

The amendment establishes that the Mining Oversight and Accountability Commission shall review, rather than approve, certain permanent regulations adopted by the Nevada Tax Commission in order to become effective.

The amendment provides that the deduction for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for all employees, may not be claimed for purposes of calculating the net proceeds of minerals tax for

FY 2012 and FY 2013 only. Beginning in FY 2014, this deduction is reinstated for employees actually engaged in mining operations within the State of Nevada.

The amendment repeals the provisions of NRS 517.187, which is the Mining Claims Fee enacted during the Twenty-sixth Special Session, and establishes a mechanism to provide a refund or a credit against the Modified Business Tax for any fees already paid pursuant to this provision.

The amendment to Senate Bill No. 493 carries out the legislative policy decision to repeal the additional fee on mining claims enacted during the 2010 Twenty-Six Special Session and codified in the statutes as NRS 517.187. Because we have reached an agreement on the budget, we decided, as a matter of policy, that the collection of this additional fee on mining claims is no longer required at this time, and we are repealing the statute.

However, we want to emphasize that our policy decision was not made because of the recent decision by the Carson City district court finding the statute unconstitutional. We are confident that we would be successful on appeal in overturning the district court's decision because the decision is contrary to the plain language of Article 10 of the *Nevada Constitution*. The decision also conflicts with the history of the 1989 constitutional amendment regarding the net proceeds tax, and it is inconsistent with the contemporaneous legislation enacted by this body in 1989 to implement the constitutional amendment.

That being said, we decided that the better policy choice at this time would be to repeal the mining claim fee statute because it is no longer required under the budget compromise. But, this legislative policy choice must not be interpreted as any type of concurrence with the district court's legal conclusions because we adamantly disagree with those legal conclusions. Our decision to repeal the statute is based entirely on legislative policy. It is not based in any way on the constitutional challenges lodged against the statute.

SENATOR KIECKHEFER:

In Section 16.7 of the bill, it offers a refund or credit for anyone who paid the mining claim fee in the previous biennium. How much is being repaid to the mining industry?

SENATOR LESLIE:

The testimony for our fiscal staff indicated that $4.8 million has been paid. However, we heard from mining industry representatives that $8 million has been paid. We are trying to track down that discrepancy. The money for the mining claims fee is paid to the county recorders and they only have to report that to the State on a quarterly basis.

Amendment adopted.

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

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 434, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 72, 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, June 4, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 93, 331, 354, 494, 526.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, June 5, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 114, 195, 401, 416, 427, 476, 536, 560, 571, 576, 577, 578.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 276, Amendment No. 933; Senate Bill No. 439, Amendment No. 944, and respectfully requests your honorable body to concur in said amendments.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 93.

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

Motion carried.

Assembly Bill No. 114.

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

Motion carried.

Assembly Bill No. 195.

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

Motion carried.

Assembly Bill No. 331.

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

Motion carried.

Assembly Bill No. 354.

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

Motion carried.

Assembly Bill No. 401.

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

Motion carried.

Assembly Bill No. 416.

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

Motion carried.

Assembly Bill No. 427.

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

Motion carried.

Assembly Bill No. 476.

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

Motion carried.

Assembly Bill No. 494.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that the motion whereby Assembly Bill No. 494 was referred to the Committee on Government Affairs be rescinded.

Motion carried.

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

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 526.

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

Motion carried.

Assembly Bill No. 536.

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

Motion carried.

Assembly Bill No. 560.

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

Motion carried.

Assembly Bill No. 571.

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

Motion carried.

Assembly Bill No. 576.

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

Motion carried.

Assembly Bill No. 577.

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

Motion carried.

Assembly Bill No. 578.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 72.

Bill read third time.

Roll call on Senate Bill No. 72:

YEAS—21.

NAYS—None.

Senate Bill No. 72 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 197.

Bill read third time.

Remarks by Senators Denis and Horsford.

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

SENATOR DENIS:

Provisions concerning filing for office and for nominating and electing the elected members are effective for that purpose on January 1, 2012. The provisions affecting the appointed members are effective on January 8, 2013. The terms of all Board members who are incumbent on January 7, 2013, expire on that date. Sections of the bill dealing with the Board's mission and goals and the number and content of certain meetings are effective on January 1, 2013. All other provisions are effective on July 1, 2011. The Superintendent will be effective in March 2013. This is another one of the pieces of education reform that will help us towards our goal of making education better in Nevada. I urge your support.

SENATOR HORSFORD:

I want to commend the Chair of Education for his hard work and that of the Committee on this bill. This is a major reform initiative for K-12 education. To the governance structure, this is something members have attempted to accomplish before. This body unanimously approved legislation in 2009, which reflects many of the reforms which are now being considered by this Legislature. I believe in the provisions of the bill. I think that the Governor should have more of a say in control over the Superintendent for Public Instruction. That the governance of the State Board of Education matters. That is where the leadership is provided to our local school districts. I want to commend the Chair, the members of the Committee and all of the parties involved in the agreement on this bill, including the Governor.

Roll call on Senate Bill No. 197:

YEAS—21.

NAYS—None.

Senate Bill No. 197 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 227.

Bill read third time.

Roll call on Senate Bill No. 227:
YEAS—21.
NAYS—None.

Senate Bill No. 227 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 313.
Bill read third time.

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

Senate in recess at 11:24 p.m.

SENATE IN SESSION

At 11:27 p.m.
President Krolicki presiding.
Quorum present.

Remarks by Senators Hardy and Schneider.
Roll call on Senate Bill No. 313:
YEAS—10.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Horsford, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—11.

Senate Bill No. 313 having failed to receive a two-thirds majority, Mr. President declared it lost.

Senate Bill No. 360.
Bill read third time.
Roll call on Senate Bill No. 360:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 360 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 371.
Bill read third time.
Remarks by Senator Cegavske.
Senator Cegavske requested that her remarks be entered in the Journal.
Thank you, Mr. President. I want to thank my colleagues from Washoe District No. 1 and Clark District No. 4 for helping pass Senate Bill No. 371 and getting the language worded correctly. I want to thank Kevin Schiller from Washoe County who knows how much we appreciated his work and his efforts on Senate Bill No. 371. Thank you all.

Roll call on Senate Bill No. 371:
YEAS—21.
NAYS—None.

Senate Bill No. 371 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 427.

Bill read third time.

Roll call on Senate Bill No. 427:

YEAS—21.

NAYS—None.

Senate Bill No. 427 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 428.

Bill read third time.

Roll call on Senate Bill No. 428:

YEAS—21.

NAYS—None.

Senate Bill No. 428 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 434.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 868.

"SUMMARY—Makes various changes regarding funding and autonomy of Nevada System of Higher Education. (BDR 31-1175)"

"AN ACT relating to the Nevada System of Higher Education; ~~[creating the Nevada System of Higher Education Stabilization Account; requiring the preparation of a separate budget for certain fees imposed by the System;]~~ revising provisions governing the retention ~~[and use]~~ of certain appropriations to the System; ~~[temporarily redirecting a portion of the taxes ad valorem levied in Clark and Washoe Counties to the System;]~~ revising provisions related to capital improvements constructed by or on behalf of the System; ~~[requiring the adoption of certain standards for measuring the preparation of pupils for college; requiring certain annual reports;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[~~ ~~Section 2 of this bill creates the Nevada System of Higher Education Stabilization Account within the Fund to Stabilize the Operation of the State Government, requires the State Controller to deposit money reverted from the Nevada System of Higher Education at the close of the previous fiscal year into that Account and establishes a maximum allowed balance for the Account. Section 2 authorizes the Board of Regents of the University of~~

~~Nevada to request an allocation from the Account to offset any reserves required to be set aside by the Nevada System of Higher Education.~~

~~Existing law requires the preparation of a budget for the Executive Department of the State Government. (NRS 353.150-353.246) Section 3 of this bill excludes from that budget the tuition charges and other fees assessed by the Board of Regents of the University of Nevada and requires the Board of Regents to present to the Legislature a separate budget for the expenditure of those proceeds.]~~

Section 5 of this bill provides that the portion of any appropriations of money made to the Nevada System of Higher Education from the State General Fund that are not expended during a fiscal year will be retained by the System instead of being returned to the State General Fund**. [**~~, except for any amounts needed to maintain the maximum allowed balance for the Nevada System of Higher Education Stabilization Account.~~

~~Section 6 of this bill allows the Nevada System of Higher Education to transfer the money included in any appropriations made to the System among any of the budget accounts of the System.~~

~~Existing law authorizes a county to impose an ad valorem tax for capital projects in the amount of 5 cents per $100 of the assessed valuation of the county. (NRS 354.59815) Section 8 of this bill requires the distribution to the Nevada System of Higher Education of a portion of the proceeds of any such tax imposed during the next 2 fiscal years in a county whose population is 100,000 or more (currently Clark and Washoe Counties).]~~

Existing law ~~[requires]~~ **authorizes** the State Public Works Board **, upon the request of the head of a state agency,** to ~~[provide certain services to the Nevada System of Higher Education with respect to capital improvements. (NRS 341.141, 341.155, 341.201) Sections 9-12 of this bill exclude the System from the provisions of chapter 341 of NRS and remove all references to the System from that chapter. Section 14 of this bill requires the Board of Regents of the University of Nevada to manage or provide for the management of the System's capital improvements.]~~ **delegate to the state agency the Board's authority to manage public works projects. (NRS 341.119) Section 9.5 of this bill requires the Board, upon the request of the Board of Regents of the University of Nevada, to delegate that authority to the Nevada System of Higher Education with regard to specific works designated by the Board of Regents of the University of Nevada. Section 17** of this bill ~~[authorizes the Board of Regents,]~~ **requires the State Controller and the State Treasurer,** when specific projects are authorized by the Legislature, to ~~[use]~~ **transfer** money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education **to the Board of Regents** for the construction of capital improvement projects for the System.

~~[Section 15 of this bill requires the Board of Regents of the University of Nevada to adopt standards for measuring the preparation of pupils in~~

~~kindergarten through grade 12 to participate successfully in programs of higher education.~~

~~Section 16 of this bill requires the Board of Regents of the University of Nevada to prepare, for dissemination to the Governor and the Legislature, annual reports containing certain information regarding the preparation of students for college and the performance and budgets of the Nevada System of Higher Education.~~

~~Section 18 of this bill requires the distribution to the Nevada System of Higher Education of the portion of the property taxes levied for the next 2 fiscal years for operating purposes by Clark and Washoe Counties at the rate of 4 cents per $100 of assessed valuation.~~]

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

Section 1. ~~[Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[*1. The Nevada System of Higher Education Stabilization Account is hereby created in the Fund to Stabilize the Operation of the State Government created by NRS 353.288.*~~

~~*2. Except as otherwise provided in subsection 3, the State Controller shall, after the close of the previous fiscal year and before the issuance of the State Controller's annual report, transfer from the State General Fund to the Nevada System of Higher Education Stabilization Account any money which was reverted from the Nevada System of Higher Education to the State General Fund at the close of the previous fiscal year. Money transferred pursuant to this subsection to the Nevada System of Higher Education Stabilization Account is hereby appropriated as a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in this section.*~~

~~*3. The balance in the Nevada System of Higher Education Stabilization Account must not exceed 10 percent of the combined sum of:*~~

~~*(a) Money appropriated by the Legislature to the Nevada System of Higher Education for operating expenses; and*~~

~~*(b) Any revenue from taxes ad valorem approved by the Legislature for expenditure by the Nevada System of Higher Education.*~~

~~*4. Except as otherwise provided in subsection 3, the interest and income earned on the sum of:*~~

~~*(a) The money in the Nevada System of Higher Education Stabilization Account; and*~~

~~*(b) Unexpended appropriations made to the Nevada System of Higher Education Stabilization Account from the State General Fund,*~~

~~*→ must be credited to the Nevada System of Higher Education Stabilization Account. If the amount of such credit would cause the Account to exceed the maximum allowed balance in the Account established pursuant to subsection 3, the amount of such excess credit must be deposited for credit to*~~

~~*the Fund to Stabilize the Operation of the State Government or, if the amount of such excess credit would cause that Fund to exceed the maximum allowed balance in that Fund established pursuant to subsection 3 of NRS 353.288, the amount of such excess credit must be deposited for credit to the State General Fund.*~~

~~*5. The money in the Nevada System of Higher Education Stabilization Account must not be used to replace or supplant money otherwise available from other sources for the operation of the Nevada System of Higher Education.*~~

~~*6. The money in the Nevada System of Higher Education Stabilization Account may only be allocated by the Legislature or, if the Legislature is not in session, by the Interim Finance Committee pursuant to subsection 7, 8 or 9.*~~

~~*7. If the Board of Regents of the University of Nevada is required to set aside any reserves pursuant to NRS 353.225 or other specific statute and the Legislature is in session, the Board of Regents may submit a request for an allocation from the Nevada System of Higher Education Stabilization Account to the Director of the Legislative Counsel Bureau for transmission to the Legislature. If the Legislature finds that an allocation should be made from the Nevada System of Higher Education Stabilization Account, the Legislature shall by resolution establish the amount and purpose of the allocation and direct the State Controller to transfer that amount to the Nevada System of Higher Education. The State Controller shall thereupon make the transfer.*~~

~~*8. If the Board of Regents of the University of Nevada is required to set aside any reserves pursuant to NRS 353.225 or other specific statute and the Legislature is not in session, the Board of Regents may submit a request for an allocation from the Nevada System of Higher Education Stabilization Account to the State Board of Examiners. The State Board of Examiners shall consider the request and shall, if it finds that an allocation should be made, recommend the amount of the allocation to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendations of the State Board of Examiners.*~~

~~*9. If the Interim Finance Committee, after independent determination, finds that an allocation should and may lawfully be made from the Nevada System of Higher Education Stabilization Account, the Committee shall by resolution establish the amount and purpose of the allocation and direct the State Controller to transfer that amount to the Nevada System of Higher Education. The State Controller shall thereupon make the transfer. In acting upon a request for an allocation, the Interim Finance Committee shall consider, among other things:*~~

~~*(a) The need for the allocation; and*~~

~~*(b) The intent of the Legislature in creating the Nevada System of Higher Education Stabilization Account.*~~

~~*10. An allocation to offset any reserves required to be set aside by the Board of Regents of the University of Nevada pursuant to NRS 353.225 or other specific statute must be made from the Nevada System of Higher Education Stabilization Account in accordance with this section before any allocation is made from the Fund to Stabilize the Operation of the State Government for the same purpose. No allocation may be made from the Fund to Stabilize the Operation of the State Government to offset any reserves required to be set aside by the Board of Regents of the University of Nevada pursuant to NRS 353.225 or other specific statute until all money which is available in the Nevada System of Higher Education Stabilization Account has been allocated.]~~ **(Deleted by amendment.)**

Sec. 3. ~~**[***Notwithstanding any other statutory provision to the contrary:*~~

~~*1. The proceeds of any tuition charges, registration fees and other fees assessed against students by the Board of Regents of the University of Nevada, and the expenditure of such proceeds, must be excluded from each budget prepared for the Executive Department of the State Government pursuant to NRS 353.150 to 353.245, inclusive.*~~

~~*2. The Board of Regents of the University of Nevada shall submit to the Legislature in the same format as the proposed executive budget a separate budget for the expenditure of the proceeds of any tuition charges, registration fees and other fees assessed against students by the Board of Regents.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~**[**NRS 353.150 is hereby amended to read as follows:~~

~~353.150 NRS 353.150 to 353.246, inclusive, *and section 3 of this act* may be cited as the State Budget Act.**]**~~ **(Deleted by amendment.)**

Sec. 5. NRS 353.253 is hereby amended to read as follows:

353.253 1. Every agency, department and institution of the State of Nevada shall deposit all money received from the Federal Government, the counties or other sources, in the State Treasury as provided in NRS 353.250 unless otherwise provided by law. These deposits must be made to work program accounts directly or to other budget accounts.

2. Except for the balance in any proprietary fund and appropriated or authorized reserves, any balance remaining at the end of a fiscal year in a budget account of an agency, department or institution of the State of Nevada, whether or not authorized for expenditure under a work program, reverts to the source of funding supporting the agency, department or institution. If that source of funding is federal money or a source of revenue the use of which is restricted by statute, then the balance may be authorized for expenditure under a work program for the subsequent fiscal year in accordance with the provisions of this chapter.

3. No provision of this chapter may be construed to authorize or direct the transfer, expenditure or reversion of any money received from the Federal Government contrary to the conditions upon which that money was received or to any federal law or regulation respecting the accountability therefor.

4. ~~[This]~~ ***Except as otherwise provided in subsection 5, this*** section does not apply to the Board of Regents of the University of Nevada and the Nevada State Museum.

5. Any sums appropriated to the Nevada System of Higher Education do not lapse to the State General Fund at the end of any fiscal year . ~~*[except for such amounts as may be necessary to maintain the maximum allowed balance in the Nevada System of Higher Education Stabilization Account.]*~~

Sec. 6. ~~[NRS 353.255 is hereby amended to read as follows:~~

~~353.255 1. [The] *Except as otherwise provided in subsection 2, the* sums appropriated for the various branches of expenditure in the public service of the State ~~[shall]~~ *must* be applied solely to the objects for which they are respectively made, and for no others.~~

~~2. *Any sums appropriated to the Nevada System of Higher Education may be transferred among the various budget accounts of the Nevada System of Higher Education in the same manner and within the same limits as allowed for revisions of work programs in NRS 353.220.*~~

~~3. Any person violating the provisions of subsection 1 shall be punished by a fine of not more than $500.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[NRS 353.288 is hereby amended to read as follows:~~

~~353.288 1. The Fund to Stabilize the Operation of the State Government is hereby created as a special revenue fund. Except as otherwise provided in subsections 3 and 4, each year after the close of the previous fiscal year and before the issuance of the State Controller's annual report, the State Controller shall transfer from the State General Fund to the Fund to Stabilize the Operation of the State Government:~~

~~(a) Forty percent of the unrestricted balance of the State General Fund, as of the close of the previous fiscal year, which remains after subtracting an amount equal to 7 percent of all appropriations made from the State General Fund during that previous fiscal year for the operation of all departments, institutions and agencies of State Government and for the funding of schools; and~~

~~(b) Commencing with the fiscal year that begins on July 1, 2011, 1 percent of the total anticipated revenue for the fiscal year in which the transfer will be made, as projected by the Economic Forum for that fiscal year pursuant to paragraph (c) of subsection 1 of NRS 353.228 and as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year.~~

~~2. Money transferred pursuant to subsection 1 to the Fund to Stabilize the Operation of the State Government is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in this section.~~

~~3. The balance in the Fund to Stabilize the Operation of the State Government, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount, must not exceed 20 percent of~~

~~the total of all appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and for the funding of schools and authorized expenditures from the State General Fund for the regulation of gaming for the fiscal year in which that revenue will be transferred to the Fund to Stabilize the Operation of the State Government.~~

~~4. Except as otherwise provided in this subsection and NRS 353.2735, beginning with the fiscal year that begins on July 1, 2003, the State Controller shall, at the end of each quarter of a fiscal year, transfer from the State General Fund to the Disaster Relief Account created pursuant to NRS 353.2735 an amount equal to not more than 10 percent of the aggregate balance in the Fund to Stabilize the Operation of the State Government during the previous quarter, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount created pursuant to NRS 414.135. The State Controller shall not transfer more than $500,000 for any quarter pursuant to this subsection.~~

~~5. [The] *Except as otherwise provided in section 2 of this act, the* Chief of the Budget Division of the Department of Administration may submit a request to the State Board of Examiners to transfer money from the Fund to Stabilize the Operation of the State Government to the State General Fund:~~

~~(a) If the total actual revenue of the State falls short by 5 percent or more of the total anticipated revenue for the biennium in which the transfer will be made, as determined by the Legislature, or the Interim Finance Committee if the Legislature is not in session; or~~

~~(b) If the Legislature, or the Interim Finance Committee if the Legislature is not in session, and the Governor declare that a fiscal emergency exists.~~

~~6. The State Board of Examiners shall consider a request made pursuant to subsection 5 and shall, if it finds that a transfer should be made, recommend the amount of the transfer to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.~~

~~7. If the Interim Finance Committee finds that a transfer recommended by the State Board of Examiners should and may lawfully be made, the Committee shall by resolution establish the amount and direct the State Controller to transfer that amount to the State General Fund. The State Controller shall thereupon make the transfer.~~

~~8. In addition to the manner of allocation authorized pursuant to subsections 5, 6 and 7, the money in the Fund to Stabilize the Operation of the State Government may be allocated directly by the Legislature to be used for any other purpose.]~~ **(Deleted by amendment.)**

Sec. 8. ~~[NRS 354.59815 is hereby amended to read as follows:~~

~~354.59815 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, the board of county commissioners may levy a tax ad valorem on all taxable property in the county at a rate not to exceed 5 cents per $100 of the assessed valuation of the county.~~

~~2. If a tax is levied pursuant to subsection 1 in:~~

~~(a) A county whose population is less than 100,000, the board of county commissioners shall direct the county treasurer to distribute quarterly the proceeds of the tax among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year.~~

~~(b) A county whose population is 100,000 or more, the board of county commissioners shall direct the county treasurer to distribute quarterly, from the proceeds of the tax for:~~

~~(1) The fiscal year beginning on July 1, 2008:~~

~~(I) Eighty-eight percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and~~

~~(II) Twelve percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.~~

~~(2) The fiscal year beginning on July 1, 2009:~~

~~(I) Seventy-six percent of those proceeds to the State Treasurer for deposit in the State General Fund; and~~

~~(II) Twenty-four percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.~~

~~(3) The fiscal year beginning on July 1, 2010:~~

~~(I) Sixty-four percent of those proceeds to the State Treasurer for deposit in the State General Fund; and~~

~~(II) Thirty-six percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.~~

~~(4) The fiscal year beginning on July 1, 2011 [~~:

~~(I) Fifty-two percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and~~

~~(II) Forty-eight percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.~~

~~(5)~~**]** ~~*, all of those proceeds to the Board of Regents of the University of Nevada for the maintenance and support of the Nevada System of Higher Education.*~~

~~*(5) The fiscal year beginning on July 1, 2012, all of those proceeds to the Board of Regents of the University of Nevada for the maintenance and support of the Nevada System of Higher Education.*~~

~~*(6)* Each fiscal year beginning on or after July 1, **[**2012:**]** *2013:*~~

~~(I) Forty percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and~~

~~(II) Sixty percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.~~

~~3. The board of county commissioners shall not reduce the rate of any tax levied pursuant to the provisions of subsection 1 without the approval of the State Board of Finance and each of the local governments that receives a portion of the tax, except that, if a local government declines to receive its portion of the tax in a particular year the levy may be reduced by the amount that local government would have received.~~**]** **(Deleted by amendment.)**

Sec. 9. ~~**[**Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*The provisions of this chapter do not apply to capital improvements constructed by or on behalf of the Nevada System of Higher Education.]*~~ **(Deleted by amendment.)**

Sec. 9.5. **NRS 341.119 is hereby amended to read as follows:**

341.119 1. Upon the request of the head of a state agency, the Board may delegate to that agency any of the authority granted the Board pursuant to NRS 341.141 to 341.148, inclusive.

2. ***Upon the request of the Board of Regents of the University of Nevada, the State Public Works Board shall delegate to the Nevada System of Higher Education any of the authority granted to the State Public Works Board pursuant to NRS 341.141 to 341.148, inclusive, regarding specific buildings, facilities, improvements and structures designated by the Board of Regents to be constructed by or on behalf of the Nevada System of Higher Education. The Board of Regents shall provide the Manager with such information regarding those specific buildings, facilities, improvements and structures as the Manager determines to be necessary to carry out the provisions of paragraph (g) of subsection 8 of NRS 341.100.***

3. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult

with the Board concerning a construction project or to approve the advance planning of a project.

Sec. 10. NRS 341.141 is hereby amended to read as follows:

341.141 1. The Board shall furnish engineering and architectural services to **the Nevada System of Higher Education and all other** ~~*[all]*~~ state departments, boards or commissions charged with the construction of any building constructed on state property or for which the money is appropriated by the Legislature, except:

(a) Buildings used in maintaining highways;

(b) Improvements, other than nonresidential buildings with more than 1,000 square feet in floor area, made:

(1) In state parks by the State Department of Conservation and Natural Resources; or

(2) By the Department of Wildlife; ~~[and]~~

(c) Buildings on property controlled by other state agencies if the Board has delegated its authority in accordance with ***subsection 1 of*** NRS 341.119 ~~[.]~~ ***; and***

(d) Buildings, facilities, improvements and structures regarding which the Board has delegated its authority to the Nevada System of Higher Education in accordance with subsection 2 of NRS 341.119.

➥ The Board of Regents of the University of Nevada and all ~~*[; and*~~

~~*(d) Buildings, facilities, improvements and structures constructed by or on behalf of the Nevada System of Higher Education.*~~

~~➥ *All]*~~ other state departments, boards or commissions shall use those services.

2. The services must consist of:

(a) Preliminary planning;

(b) Designing;

(c) Estimating of costs; and

(d) Preparation of detailed plans and specifications.

Sec. 11. ~~[NRS 341.155 is hereby amended to read as follows:~~

~~341.155 With the concurrence of the Board, [the Board of Regents of the University of Nevada and any other] *any* state department, board or commission may enter into agreements with persons, associations or corporations to provide consulting services to determine and plan the construction work that may be necessary to meet the needs of the programs of those agencies. These contracts must [be] :~~

~~*1. Be* for a term not exceeding 5 years ; and [must provide]~~

~~*2. Provide* for payment of a fee for those services not to exceed one-half of 1 percent of the total value of [:~~

~~1. In the case of the Nevada System of Higher Education, building construction contracts relating to the construction of a branch or facility within the Nevada System of Higher Education; and~~

~~2. In the case of another state department, board or commission,] all construction contracts relating to construction for [that agency,~~

~~]~~ ~~*the applicable state department, board or commission*~~ ~~during the term and in the area covered by the contract.]~~ **(Deleted by amendment.)**

Sec. 12. ~~[[NRS 341.201 is hereby amended to read as follows:~~

~~341.201 The Board shall inspect all state buildings periodically [, including all buildings at the University of Nevada, Reno, and at the University of Nevada, Las Vegas,] and all physical plant facilities at all state institutions. Reports of all inspections, including findings and recommendations, must be submitted to the appropriate state agencies , and [,] if the Board finds any matter of serious concern in a report, it shall submit that report to the Legislative Commission.]~~ **(Deleted by amendment.)**

Sec. 13. ~~[Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 14, 15 and 16 of this act.]~~ **(Deleted by amendment.)**

Sec. 14. ~~[*1. The Board of Regents shall manage or cause to be managed all capital improvements constructed by or on behalf of the System.*~~

~~*2. In carrying out the provisions of subsection 1, the Board of Regents may procure or cause to be procured such architectural, consulting, contracting and engineering services as the Board may determine to be necessary or advisable.*~~

~~*3. The Board of Regents shall recommend to the Governor and to the Legislature the priority of construction of any and all buildings, facilities, improvements, structures or other construction work now authorized or that may hereafter be authorized or proposed. The Board shall submit before October 1 of each even-numbered year its recommendations for capital improvements in the next biennium.]*~~ **(Deleted by amendment.)**

Sec. 15. ~~[*The Board of Regents, with the assistance of the Superintendent of Public Instruction, shall adopt standards for determining the extent to which pupils in kindergarten through grade 12 are being prepared to participate successfully in programs of higher education.]*~~ **(Deleted by amendment.)**

Sec. 16. ~~[*1. The Board of Regents shall, on or before February 1 of each year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature an annual report regarding the performance and budgets of the System.*~~

~~*2. The report required by this section must include:*~~

~~*(a) Information for the immediately preceding 5 fiscal years regarding:*~~

~~*(1) The extent to which students first entering the System are prepared to participate successfully in programs of higher education;*~~

~~*(2) The average period of retention of students in the System;*~~

~~*(3) The percentage of students who graduate within a 6-year period from universities and other 4-year programs within the System;*~~

~~*(4) The percentage of students enrolled in community colleges within the System who are:*~~

~~*(I) Placed into positions of employment; or*~~

~~*(II) Transferred to universities or other 4-year programs within the System;*~~

~~*(5) The percentage of students who pass their licensing or certification examinations after completing pertinent programs of study within the System; and*~~

~~*(6) The extent of improvement in the information described in subparagraphs (1) to (5), inclusive, since the immediately preceding annual report;*~~

~~*(b) Budgetary information regarding:*~~

~~*(1) The revenues to be expended within each of the System's functional areas; and*~~

~~*(2) The anticipated amount to be expended from each source of revenue of the System for each full-time student at each institution within the System; and*~~

~~*(c) A description of:*~~

~~*(1) All student fees approved by the Board of Regents; and*~~

~~*(2) The allocation of those fees, as categorized by the purpose of each fee, to the state-supported operating budgets and any self-supporting operating budgets of the System.]*~~ **(Deleted by amendment.)**

Sec. 17. NRS 463.385 is hereby amended to read as follows:

463.385 1. In addition to any other license fees and taxes imposed by this chapter, there is hereby imposed upon each slot machine operated in this State an annual excise tax of $250. If a slot machine is replaced by another, the replacement is not considered a different slot machine for the purpose of imposing this tax.

2. The Commission shall:

(a) Collect the tax annually on or before June 30, as a condition precedent to the issuance of a state gaming license to operate any slot machine for the ensuing fiscal year beginning July 1, from a licensee whose operation is continuing.

(b) Collect the tax in advance from a licensee who begins operation or puts additional slot machines into play during the fiscal year, prorated monthly after July 31.

(c) Include the proceeds of the tax in its reports of state gaming taxes collected.

3. Any other person, including, without limitation, an operator of an inter-casino linked system, who is authorized to receive a share of the revenue from any slot machine that is operated on the premises of a licensee is liable to the licensee for that person's proportionate share of the license fees paid by the licensee pursuant to this section and shall remit or credit the full proportionate share to the licensee on or before the dates set forth in subsection 2. A licensee is not liable to any other person authorized to receive a share of the licensee's revenue from any slot machine that is operated on the premises of a licensee for that person's proportionate share of

the license fees to be remitted or credited to the licensee by that person pursuant to this section.

4. The Commission shall pay over the tax as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund, and the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education, which are hereby created in the State Treasury as special revenue funds, in the amounts and to be expended only for the purposes specified in this section, or for any other purpose authorized by the Legislature.

5. During each fiscal year, the State Treasurer shall deposit the tax paid over to him or her by the Commission as follows:

(a) The first $5,000,000 of the tax in the Capital Construction Fund for Higher Education;

(b) Twenty percent of the tax in the Special Capital Construction Fund for Higher Education; and

(c) The remainder of the tax in the State Distributive School Account in the State General Fund.

6. There is hereby appropriated from the balance in the Special Capital Construction Fund for Higher Education on July 31 of each year the amount necessary to pay the principal and interest due in that fiscal year on the bonds issued pursuant to section 5 of chapter 679, Statutes of Nevada 1979, as amended by chapter 585, Statutes of Nevada 1981, at page 1251, the bonds authorized to be issued by section 2 of chapter 643, Statutes of Nevada 1987, at page 1503, the bonds authorized to be issued by section 2 of chapter 614, Statutes of Nevada 1989, at page 1377, the bonds authorized to be issued by section 2 of chapter 718, Statutes of Nevada 1991, at page 2382, and the bonds authorized to be issued by section 2 of chapter 629, Statutes of Nevada 1997, at page 3106. If in any year the balance in that fund is not sufficient for this purpose, the remainder necessary is hereby appropriated on July 31 from the Capital Construction Fund for Higher Education. The balance remaining unappropriated in the Capital Construction Fund for Higher Education on August 1 of each year and all amounts received thereafter during the fiscal year must be transferred to the State General Fund for the support of higher education. If bonds described in this subsection are refunded and if the amount required to pay the principal of and interest on the refunding bonds in any fiscal year during the term of the bonds is less than the amount that would have been required in the same fiscal year to pay the principal of and the interest on the original bonds if they had not been refunded, there is appropriated to the Nevada System of Higher Education an amount sufficient to pay the principal of and interest on the original bonds, as if they had not been refunded. The amount required to pay the principal of and interest on the refunding bonds must be used for that purpose from the amount appropriated. The amount equal to the saving realized in that fiscal year from the refunding must be used by the Nevada System of Higher Education to

defray, in whole or in part, the expenses of operation and maintenance of the facilities acquired in part with the proceeds of the original bonds.

7. After the requirements of subsection 6 have been met for each fiscal year, when specific projects are authorized by the Legislature, money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education **must be transferred by the State Controller and the State Treasurer to the** ~~[State Public Works Board]~~ ~~*[may be used by the]*~~ ***Board of Regents of the University of Nevada*** for the construction of capital improvement projects for the Nevada System of Higher Education, including, but not limited to, capital improvement projects for the community colleges of the Nevada System of Higher Education. As used in this subsection, "construction" includes, but is not limited to, planning, designing, acquiring and developing a site, construction, reconstruction, furnishing, equipping, replacing, repairing, rehabilitating, expanding and remodeling. Any money remaining in either Fund at the end of a fiscal year does not revert to the State General Fund but remains in those Funds for authorized expenditure.

8. The money deposited in the State Distributive School Account in the State General Fund under this section must be apportioned as provided in NRS 387.030 among the several school districts and charter schools of the State at the times and in the manner provided by law.

9. The Board of Regents of the University of Nevada may use any money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education for the payment of interest and amortization of principal on bonds and other securities, whether issued before, on or after July 1, 1979, to defray in whole or in part the costs of any capital project authorized by the Legislature.

Sec. 18. ~~[1. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Clark County shall distribute quarterly to the Board of Regents of the University of Nevada for the maintenance and support of the Nevada System of Higher Education, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2011, and July 1, 2012, the amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per $100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds distributed to the Board of Regents pursuant to this subsection shall be deemed to constitute revenue received by Clark County from taxes ad valorem.~~

~~2. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Washoe County shall distribute quarterly to the Board of Regents of the University of Nevada for the maintenance and support of the Nevada System of Higher Education, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2011, and July 1, 2012, the~~

~~amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per $100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds distributed to the Board of Regents pursuant to this subsection shall be deemed to constitute revenue received by Washoe County from taxes ad valorem.]~~ **(Deleted by amendment.)**

Sec. 19. ~~[The amendatory provisions of section 8 of this act must not be applied to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of this State or of any county, city or town in this State, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.]~~ **(Deleted by amendment.)**

Sec. 20. This act becomes effective on July 1, 2011.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

First, Senate Bill No. 434, as amended, revises NRS Chapter 353 to provide that any monies appropriated by the Legislature to the Nevada System of Higher Education (NSHE) State supported operating budgets do not revert to the State General Fund at the end of each fiscal year.

Second, Senate Bill No. 434, as amended, revises NRS Chapter 341 to provide that upon the request of the Board of Regents, the State Public Works Board shall delegate to the NSHE any of the State Public Works Board's authorities for any specific buildings, facilities, improvements and structures designated by the Board of Regents to be constructed by or on behalf of the NSHE. At present, the State Public Works Board is responsible for determining the entity responsible for managing projects and has the authority to delegate such responsibility.

Finally, Senate Bill No. 434, as amended, revises NRS Chapter 463.385 to provide that the monies allocated to the Higher Education Capital Construction and Special Higher Education Capital Construction funds and authorized for expenditure by the Legislature are to be transferred to the Board of Regents by the State Controller rather than to the State Public Works Board.

Senate Bill No. 434, as amended, is effective July 1, 2011.

Amendment adopted.

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

Senate Bill No. 473.

Bill read third time.

Roll call on Senate Bill No. 473:

YEAS—21.

NAYS—None.

Senate Bill No. 473 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 74.

Bill read third time.

Roll call on Assembly Bill No. 74:

YEAS—21.

NAYS—None.

Assembly Bill No. 74 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 222.

Bill read third time.

Remarks by Senator Denis.

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

Assembly Bill No. 222 creates the Teachers and Leaders Council of Nevada, consisting of 15 members. The Council is authorized to accept gifts, grants, donations and contributions from any source to carry out the provisions of this measure.

The measure requires the Council to make recommendations to the State Board of Education concerning the adoption of regulations for establishing a statewide performance evaluation system for teachers and administrators employed by school districts. Based upon the recommendations of the Council, the State Board of Education is required to adopt regulations establishing an evaluation system that incorporates multiple measures of an employee's performance.

Effective July 1, 2013, the evaluation system will require that at least 50 percent of the evaluation of an individual teacher or administrator be based upon the academic achievement of pupils. In addition, the measure provides that an evaluation of a probationary or postprobationary teacher must include an evaluation of whether the teacher employs practices and strategies to involve and engage the parents and families of pupils in the classroom. If a teacher receives a negative evaluation on the first or second evaluation, or both, the teacher may then request the third evaluation be conducted by another evaluator selected from a list of three candidates submitted by the superintendent of the school district. The bill amends Assembly Bill No. 229, already passed by both houses, to make the bills conform in this regard.

Finally, the evaluation system shall require that an employee's overall performance be determined to be "highly effective," "effective," "minimally effective," or "ineffective." Charter schools are not required to participate in the evaluation system created by the Council. Until implementation of the new performance evaluation system on July 1, 2013, the measure requires each school district to develop a policy for the evaluation of teachers and administrators that requires student achievement to account for a significant portion of the evaluation.

Finally, the measure appropriates from the State General Fund to the Department of Education $32,000 over the biennium to fund the costs of Teachers and Leaders Council.

This will be a good way to be able to evaluate teachers. This has been found to be effective in other states. I urge your support on the bill.

Roll call on Assembly Bill No. 222:

YEAS—14.

NAYS—Brower, Cegavske, Gustavson, Halseth, McGinness, Roberson, Settelmeyer—7.

Assembly Bill No. 222 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 259.

Bill read third time.

Roll call on Assembly Bill No. 259:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 259 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 493.

Bill read third time.

Remarks by Senators Horsford, McGinness, Kieckhefer and Leslie.

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

SENATOR HORSFORD:

There has been a lot of work by many individuals on this bill. On March 10, 2011, we learned that the Department of Taxation had not audited the mining industry's claims for deductions for more than two years. In that time, the level of deductions taken by the industry against its gross yield had greatly increased. Despite the price of gold and the gross proceeds of mines rising rapidly, there was a decline in the net proceeds that served as the basis for taxation of the mining industry, a sure indicator that deductions were growing. In the case of one large mining company, there was a gap of 72 percent between gross and net proceeds.

Just as disturbing, we also learned that the regulations adopted by the Nevada Tax Commission allowed deductions that went far beyond those permitted by State law. For years, the industry had been writing off expenses authorized by regulation that were not allowed for by law.

I petitioned as a private citizen to the Nevada Tax Commission to review those regulations, which they accepted and are doing, but one of the things that the Tax Commission members said is that we as the Legislative Body needed to better clarify those deductions that are allowable and those that should not be allowed.

State law did not allow for deductions for sales tax. But, there were regulations adopted by the Taxation Committee that permitted them.

State law does not allow companies to deduct out-of-state expenses including out-of-state corporate salaries. The Tax Commission has regulations allowing for them.

State law does not permit deductions for employee vacation pay, sick leave, bonuses and contributions to retirement plans. The Tax Commission approved regulations allowing them.

State law did not authorize deductions for employee housing, but the Tax Commission agreed to let mining companies take them.

Senate Bill No. 493 closes these loopholes and others, which brings our system more in line. Generally, the bill puts in statute what deductions the mining industry is allowed rather than relying solely on the Nevada Tax Commission to draw up those regulations, which over the years have been heavily influenced by the industry and go further than the intent of State law, as I have indicated.

Another important provision of the bill is the establishment of the new Mining Oversight and Accountability Commission, which will provide an additional layer of oversight to the regulations that are developed by the areas of taxation, safety, as well as environmental protection. It allows for that review prior to the approval of the Legislative Commission of any final regulations.

I believe this is necessary in order to have a good tax policy and to ensure that those taxes that are due to the State of Nevada are paid and that necessary loopholes are closed. I urge the body's approval of Senate Bill No. 493, and I would like to thank the Chair of the Revenue Committee for her hard work on this bill, as well.

SENATOR MCGINNESS:

Thank you, Mr. President. I voted against this bill in Committee. As it stands, now, I will support it. I was very concerned about the Oversight Committee. I felt the umbrella was too big and had too much power, but some of that has been trimmed back. We should take a fair and objective look at mining, not just go into the meetings with the objective of getting mining, because it is sexy to steal gold bars from people. We need to make certain they have a fair and equitable hearing during the interim. I will be supporting this bill.

SENATOR KIECKHEFER:

Thank you, Mr. President. I wanted to ask, since this is a bill that will increase revenue for the State, how much are we expecting to get out of this as a part of the budget agreement?

SENATOR LESLIE:

Thank you, Mr. President. I believe the net result of the deductions we are removing will generate about $12 million per year, to the State and an equal amount to the counties.

SENATOR KIECKHEFER:

Are there any additional revenues that the mining industry is going to be giving to the State to help solve our budget for the next biennium, aside from the $12 million per year?

SENATOR LESLIE:

I hope so, but I am not aware of any. They pay the same taxes through the Modified Business Tax.

SENATOR KIECKHEFER:

There is no additional revenue they are making as a part of a deal.

SENATOR LESLIE:

Not that I am aware of. If you are referring to the media accounts where mining was going to write a check, no.

SENATOR KIECKHEFER:

I have agreed to support the budget agreement as it was crafted with the revenue that is included in this bill as a component of that agreement. I will be supporting this bill. I am concerned, however, that some of the reform measures that were agreed to in those negotiations may not be living up to the expectations of my side of the aisle. If that is the case, then I believe the agreements that were reached are not necessarily being met. I want to put it on the record that I am prepared not to vote for additional revenue measures that come forward if the agreement that was reached is not lived up to.

Roll call on Senate Bill No. 493:

YEAS—16.

NAYS—Brower, Gustavson, Halseth, Rhoads, Roberson—5.

Senate Bill No. 493 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 193, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 568 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 3, which is attached to and hereby made a part of this report.

"SUMMARY—Makes various changes concerning the State Board of Cosmetology and persons and practices regulated by the Board. (BDR 54-637)"

"AN ACT relating to cosmetology; revising certain provisions governing schools of cosmetology; establishing the procedures for the licensure of certain persons who engage in the practice of hair braiding and persons who operate an establishment for hair braiding; revising provisions relating to the regulation of sanitary conditions; revising provisions relating to the licensure of various cosmetology professionals and cosmetological establishments; ~~[repealing a provision]~~ **revising provisions** relating to the ~~[provision of a]~~ surety bond ~~[by]~~ **requirements for** a school of cosmetology; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Board of Cosmetology to determine the qualifications of applicants for various licenses in cosmetology, requires the Board to license schools of cosmetology, and authorizes the Board to adopt regulations governing the sanitary conditions in cosmetological establishments, schools of cosmetology and in the practice of cosmetology. (NRS 644.090, 644.120)

~~[Section 6 of this bill: (1) prohibits a school of cosmetology from collecting the entire amount of the cost for a program at the school of cosmetology from a student of cosmetology when the student enters into a contract with the school of cosmetology; (2) authorizes a school of cosmetology to collect certain periodic payments from students; and (3) requires a school of cosmetology to use the contract for enrollment that was submitted to and approved by the Board.]~~ **Section 6.5 of this bill requires each school of cosmetology to: (1) obtain a surety bond in accordance with regulations adopted by the Board; or (2) provide for payment plans, including plans for periodic payments, in accordance with regulations adopted by the Board. The regulations regarding periodic payments must, as the Board determines appropriate, be modeled after certain federal regulations that provide payment periods for certain federal educational loans and grants.**

Sections 7-9 of this bill establish a new license as a hair braider and set forth the requirements, including passing certain examinations, that must be met before the Board may issue such a license to a person. **Section 7** sets forth the requirements for obtaining such a license for persons who have not previously practiced hair braiding or who have practiced hair braiding in this State on certain relatives without accepting compensation. **Section 8** sets forth the requirements for persons who have practiced hair braiding in another state. **Section 9** sets forth the scope of the examinations that are required to obtain a license to practice hair braiding. **Section 24** of this bill provides an exemption from the licensure requirements for a person who, without accepting compensation, practices hair braiding on a person who is related within the sixth degree of consanguinity.

Section 10 of this bill establishes a new license for persons who wish to operate an establishment for hair braiding and sets forth the requirements that must be met before the Board may issue such a license. **Sections 11-16** of this bill set forth additional requirements governing an establishment for hair braiding, including, without limitation, requirements relating to the notice which must be provided to the Board concerning a change of ownership or location and requirements relating to the qualifications of the person who must supervise the operation of such an establishment.

Under existing law, the Board is also required to provide for the registration of any person who engages in the practice of threading, and is authorized to inspect any facility in which threading is conducted. (NRS 644.331) **Section 22** of this bill authorizes the Board to include the practice of threading and any facility in which it is conducted in its regulations regarding sanitary conditions. **Sections 26-31 and 35** of this bill add United States citizenship or the legal right to remain and work in the United States to the requirements for applicants seeking licensure by the Board.

Existing law requires that schools of cosmetology post with the Board a surety bond as part of licensure. (NRS 644.383) **Section 43** of this bill repeals that requirement.

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

Section 1. NRS 640C.100 is hereby amended to read as follows:

640C.100 1. The provisions of this chapter do not apply to:

(a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B of NRS if the massage therapy is performed in the course of the practice for which the person is licensed.

(b) A person licensed as a barber or apprentice pursuant to chapter 643 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for a barber or apprentice pursuant to that chapter.

(c) A person licensed or registered as an aesthetician, ***hair designer, hair braider,*** cosmetologist or cosmetologist's apprentice pursuant to chapter 644 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for an aesthetician, ***hair designer, hair braider,*** cosmetologist or cosmetologist's apprentice pursuant to that chapter.

(d) A person who is an employee of an athletic department of any high school, college or university in this State and who, within the scope of that employment, practices massage therapy on athletes.

(e) Students enrolled in a school of massage therapy recognized by the Board.

(f) A person who practices massage therapy solely on members of his or her immediate family.

(g) A person who performs any activity in a licensed brothel.

2. Except as otherwise provided in subsection 3, the provisions of this chapter preempt the licensure and regulation of a massage therapist by a county, city or town, including, without limitation, conducting a criminal background investigation and examination of a massage therapist or applicant for a license to practice massage therapy.

3. The provisions of this chapter do not prohibit a county, city or town from requiring a massage therapist to obtain a license or permit to transact business within the jurisdiction of the county, city or town, if the license or permit is required of other persons, regardless of occupation or profession, who transact business within the jurisdiction of the county, city or town.

4. As used in this section, "immediate family" means persons who are related by blood, adoption or marriage, within the second degree of consanguinity or affinity.

Sec. 2. Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 16, inclusive, of this act.

Sec. 3. ***"Establishment for hair braiding" means any premises, mobile unit, building or part of a building where hair braiding is practiced, other than a cosmetological establishment.***

Sec. 4. ***"Hair braider" means any person who engages in the practice of hair braiding.***

Sec. 5. ***1. "Hair braiding" means a natural form of hair manipulation by braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving or wrapping human hair, natural fibers, synthetic fibers and hair extensions. The practice may be performed by hand or by using simple braiding devices, including, without limitation, clips, combs, hairpins, scissors, needles and thread.***

2. The term includes:

(a) Cleansing the scalp; and

(b) The making of customized wigs from natural hair, natural fibers, synthetic fibers and hair extensions.

3. The term does not include:

(a) The use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles or chemical hair bleaching agents applied to growing human hair;

(b) The cutting or growing of human hair, except that the term includes the trimming of hair extensions or sewn weave-in extensions only as applicable to the braiding process; or

(c) Any other activity set forth in the definition of "cosmetologist" pursuant to NRS 644.023 other than the activities expressly set forth in subsections 1 and 2.

Sec. 6. ~~*1. A school of cosmetology shall not:*~~

~~*(a) Collect the entire amount of the cost for a program at the school of cosmetology from a student of cosmetology at the time the student enters into a contract with the school of cosmetology; or*~~

~~*(b) Except for an initial payment of not more than 25 percent of the total amount of the cost for the program at the school, invoice or collect from a student a periodic payment toward the cost for the quarter of the program at the school of cosmetology until at least 75 percent of the instruction in the curriculum of the immediately preceding quarter of the program has been completed.*~~

~~*2. A school of cosmetology shall use the contract for the enrollment of a student in a program at the school of cosmetology that was submitted to and approved by the Board, including any revisions approved by the Board pursuant to subsection 3, to contract with the student of cosmetology. The approved contract must include, without limitation:*~~

~~*(a) A notice indicating that the school of cosmetology is not required to post a surety bond with the Board; and*~~

~~*(b) A provision indicating that the school of cosmetology is authorized to collect:*~~

~~*(1) Not more than 25 percent of the total amount of the cost for the program at the school of cosmetology from a student at the time the student enters into the contract with the school of cosmetology; and*~~

~~*(2) Additional periodic payments in increments of not more than 25 percent of the total amount of the cost for the program for each quarter of the program. This amount may be collected by the school of cosmetology when at least 75 percent of the instruction in the curriculum of the immediately preceding quarter of the program has been completed.*~~

~~*3. The school of cosmetology shall submit to the Board for its approval a notice detailing any revisions to the approved contract. The revisions must be approved by the Board before the school of cosmetology may use the revised contract. The revisions shall be deemed to be approved by the Board if the revisions are not disapproved by the Board within 60 days after their submission to the Board.*~~

~~*4. The Board:*~~

~~*(a) Shall respond to any complaints with regard to a contract between a school of cosmetology and a student of cosmetology; and*~~

~~*(b) If the Board or its staff has reason to believe that a school of cosmetology has not complied with any provisions governing such a contract, may require the school of cosmetology to submit for review its current contract for the enrollment of a student or may conduct an inspection of the school of cosmetology.]*~~ **(Deleted by amendment.)**

Sec. 6.5. 1. Each school of cosmetology shall:

(a) Obtain a surety bond in accordance with regulations adopted by the Board; or

(b) Provide for payment plans, including plans for periodic payments, in accordance with regulations adopted by the Board.

2. The Board shall adopt regulations regarding surety bonds and payment plans for purposes of subsection 1. The regulations regarding periodic payments must, as the Board determines appropriate, be modeled after 34 C.F.R. § 668.4.

Sec. 7. ***1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:***

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has not practiced hair braiding previously:

(1) Has completed a minimum of 250 hours of training and education as follows:

(I) Fifty hours concerning the laws of Nevada and the regulations of the Board relating to cosmetology;

(II) Seventy-five hours concerning infection control and sanitation;

(III) Seventy-five hours regarding the health of the scalp and the skin of the human body; and

(IV) Fifty hours of clinical practice; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

(f) If the person has practiced hair braiding in this State on a person who is related within the sixth degree of consanguinity without a license and without charging a fee:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year on such a relative; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant;

(3) The current passport issued to the applicant; or

(4) A voter registration card issued to the applicant pursuant to NRS 293.517.

Sec. 8. *1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has practiced hair braiding in another state, has applied to the Board in proper form and paid a fee of $200, and who:*

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has practiced hair braiding in another state in accordance with a license issued in that other state:

(1) Has submitted to the Board proof of the license; and

(2) Has passed the written tests described in section 9 of this act.

(f) If the person has practiced hair braiding in another state without a license and it is legal in that state to practice hair braiding without a license:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant;

(3) The current passport issued to the applicant; or

(4) A voter registration card issued to the applicant pursuant to NRS 293.517.

Sec. 9. *1. The examination for licensure as a hair braider pursuant to paragraph (e) of subsection 1 of section 8 of this act must include:*

(a) A written test on antisepsis, sterilization and sanitation; and

(b) A written test on the laws of Nevada and the regulations of the Board relating to cosmetology.

2. The examination for licensure as a hair braider pursuant to section 7 or paragraph (f) of subsection 1 of section 8 of this act must include:

(a) The written tests described in subsection 1; and

(b) A practical demonstration in hair braiding.

Sec. 10. ***1. Any person wishing to operate an establishment for hair braiding must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain a detailed floor plan of the proposed establishment for hair braiding and proof of any particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker.***

2. The applicant must submit the application accompanied by the required fees for inspection and licensing. After the applicant has submitted the application, the applicant must contact the Board and request a verbal review concerning the application to determine if the establishment for hair braiding complies with the requirements of this chapter and any regulations adopted by the Board. If, based on the verbal review, the Board determines that the establishment for hair braiding meets those requirements, the Board shall issue to the applicant the required license. Upon receipt of the license, the applicant must contact the Board to request the activation of the license. A license issued pursuant to this subsection is not valid until it is activated. The Board shall conduct an on-site inspection of the establishment for hair braiding not later than 90 days after the date on which the license is activated.

3. The fee for a license for an establishment for hair braiding is $200. The fee for the initial inspection is $15. If an additional inspection is necessary, the fee is $25.

Sec. 11. ***1. The Board must be notified of any change of ownership, name, services offered or location of an establishment for hair braiding. The establishment may not be operated after the change until a new license is issued. The owner of the establishment must apply to the Board for the license and pay the fees established pursuant to subsection 3 of section 10 of this act.***

2. After a license has been issued for the operation of an establishment for hair braiding, any changes in the physical structure of the establishment must be approved by the Board.

Sec. 12. ***1. The license of an establishment for hair braiding expires 2 years after the date of issuance or renewal of the license.***

2. If the owner of an establishment for hair braiding fails to pay the required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 13. ***Every holder of a license issued by the Board to operate an establishment for hair braiding shall display the license in plain view of members of the general public in the principal office or place of business of the holder.***

Sec. 14. ***Hair braiding may be practiced in an establishment for hair braiding by licensed hair braiders, hair designers or cosmetologists who are:***

1. Employees of the owner of the establishment; or

2. Lessees of space from the owner of the establishment.

Sec. 15. ***An establishment for hair braiding must, at all times, be under the immediate supervision of a licensed hair braider, hair designer or cosmetologist.***

Sec. 16. ***Food or beverages for immediate consumption may be sold in an establishment for hair braiding.***

Sec. 17. NRS 644.020 is hereby amended to read as follows:

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.0295, inclusive, ***and sections 3, 4 and 5 of this act*** have the meanings ascribed to them in those sections.

Sec. 18. NRS 644.0205 is hereby amended to read as follows:

644.0205 1. "Aesthetician" means any person who engages in the practices of:

(a) Beautifying, massaging, cleansing or stimulating the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

(b) Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body; and

(c) Removing superfluous hair from the body of any person by the use of depilatories, waxing, tweezers or sugaring,

➥ but does not include the branches of cosmetology of a cosmetologist, hair designer, ***hair braider,*** electrologist or nail technologist.

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 19. NRS 644.024 is hereby amended to read as follows:

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** demonstrator of cosmetics and nail technologist.

Sec. 20. NRS 644.090 is hereby amended to read as follows:

644.090 The Board shall:

1. Hold examinations to determine the qualifications of all applicants for a license, except as otherwise provided in this chapter, whose applications have been submitted to it in proper form.

2. Issue licenses to such applicants as may be entitled thereto.

3. License ***establishments for hair braiding,*** cosmetological establishments and schools of cosmetology.

4. Report to the proper prosecuting officers all violations of this chapter coming within its knowledge.

5. Inspect schools of cosmetology ***, establishments for hair braiding*** and cosmetological establishments to ensure compliance with the statutory requirements and adopted regulations of the Board. This authority extends to any member of the Board or its authorized employees.

Sec. 21. NRS 644.110 is hereby amended to read as follows:

644.110 The Board shall adopt reasonable regulations:

1. For carrying out the provisions of this chapter.

2. For conducting examinations of applicants for licenses.

3. For governing the recognition of, and the credits to be given to, the study of cosmetology under a licensed electrologist or in a school of cosmetology licensed pursuant to the laws of another state or territory of the United States or the District of Columbia.

4. For governing the conduct of schools of cosmetology. The regulations must include but need not be limited to, provisions:

(a) Prohibiting schools from requiring that students purchase beauty supplies for use in the course of study;

(b) Prohibiting schools from deducting earned hours of school credit or any other compensation earned by a student as a punishment for misbehavior of the student;

(c) Providing for lunch and coffee recesses for students during school hours; and

(d) Allowing a member or an authorized employee of the Board to review the records of a student's training and attendance.

5. Governing the courses of study and practical training required of persons for treating the skin of the human body.

6. For governing the conduct of cosmetological establishments.

7. As the Board determines are necessary for governing the conduct of establishments for hair braiding.

Sec. 22. NRS 644.120 is hereby amended to read as follows:

644.120 1. The Board may adopt such regulations governing sanitary conditions as it deems necessary with particular reference to the precautions to be employed to prevent the creating or spreading of infectious or contagious diseases ***in the practice of hair braiding, in establishments for hair braiding, in the practice of a cosmetologist,*** in cosmetological establishments or schools of cosmetology, ~~[or in the practice of a cosmetologist.]~~ ***in the practice of threading and in any facility in this State in which threading is conducted.***

2. No regulation governing sanitary conditions thus adopted has any effect until it has been approved by the State Board of Health.

3. A copy of all regulations governing sanitary conditions which are adopted must be furnished to each person to whom a license is issued for the conduct of a cosmetological establishment, ***establishment for hair braiding,*** school of cosmetology or practice of cosmetology.

Sec. 23. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every nail technologist, electrologist, aesthetician, hair

designer, ***hair braider,*** demonstrator of cosmetics and cosmetologist, together with the names and addresses of all ***establishments for hair braiding,*** cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 24. NRS 644.190 is hereby amended to read as follows:

644.190 1. It is unlawful for any person to conduct or operate a cosmetological establishment, ***an establishment for hair braiding, a*** school of cosmetology or any other place of business in which any one or any combination of the occupations of cosmetology are taught or practiced unless the person is licensed in accordance with the provisions of this chapter.

2. Except as otherwise provided in ~~[subsection 4,]~~ ***subsections 4 and 5,*** it is unlawful for any person to engage in, or attempt to engage in, the practice of cosmetology or any branch thereof, whether for compensation or otherwise, unless the person is licensed in accordance with the provisions of this chapter.

3. This chapter does not prohibit:

(a) Any student in any school of cosmetology established pursuant to the provisions of this chapter from engaging, in the school and as a student, in work connected with any branch or any combination of branches of cosmetology in the school.

(b) An electrologist's apprentice from participating in a course of practical training and study.

(c) A person issued a provisional license as an instructor pursuant to NRS 644.193 from acting as an instructor and accepting compensation therefor while accumulating the hours of training as a teacher required for an instructor's license.

(d) The rendering of cosmetological services by a person who is licensed in accordance with the provisions of this chapter, if those services are rendered in connection with photographic services provided by a photographer.

(e) A registered cosmetologist's apprentice from engaging in the practice of cosmetology under the immediate supervision of a licensed cosmetologist.

4. A person employed to render cosmetological services in the course of and incidental to the production of a motion picture, television program, commercial or advertisement is exempt from the licensing requirements of this chapter if he or she renders cosmetological services only to persons who will appear in that motion picture, television program, commercial or advertisement.

5. A person practicing hair braiding is exempt from the licensing requirements of this chapter applicable to hair braiding if the hair braiding is practiced on a person who is related within the sixth degree of consanguinity and the person does not accept compensation for the hair braiding.

Sec. 25. NRS 644.193 is hereby amended to read as follows:

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his or her education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, ***hair braider,*** aesthetician or nail technologist for 1 year and submits written verification of his or her experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself or herself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than $40 and not more than $75 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year after the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

Sec. 26. NRS 644.200 is hereby amended to read as follows:

644.200 The Board shall admit to examination for a license as a cosmetologist, at any meeting of the Board held to conduct examinations, any person who has made application to the Board in proper form and paid the fee, and who before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to applicable state or federal requirements.
~~[4.]~~ ***5.*** Has had any one of the following:

(a) Training of at least 1,800 hours, extending over a school term of 10 months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of a cosmetologist for a period of 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board.

(d) Completion of at least 3,600 hours of service as a cosmetologist's apprentice in a licensed cosmetological establishment in which all of the occupations of cosmetology are practiced. The required hours must have been completed during the period of validity of the certificate of registration as a cosmetologist's apprentice issued to the person pursuant to NRS 644.217.

Sec. 27. NRS 644.203 is hereby amended to read as follows:

644.203 The Board shall admit to examination for a license as an electrologist any person who has made application to the Board in the proper form and paid the fee, and who before or on the date set for the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed the 12th grade in school or its equivalent.
~~[4.]~~ ***5.*** Has or has completed any one of the following:

(a) A minimum training of 500 hours under the immediate supervision of an approved electrologist in an approved school in which the practice is taught.

(b) Study of the practice for at least 1,000 hours extending over a period of 5 consecutive months, under an electrologist licensed pursuant to this chapter, in an approved program for electrologist's apprentices.

(c) A valid electrologist's license issued by a state whose licensing requirements are equal to or greater than those of this State.

(d) Either training or practice, or a combination of training and practice, in electrology outside this State for a period specified by regulations of the Board.

Sec. 28. NRS 644.204 is hereby amended to read as follows:

644.204 The Board shall admit to examination for a license as a hair designer, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.
~~[4.]~~ ***5.*** Has had at least one of the following:

(a) Training of at least 1,200 hours, extending over a period of 7 consecutive months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of hair designing for at least 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board.

Sec. 29. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee and who, before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***

4. Has successfully completed the 10th grade in school or its equivalent.

~~[4.]~~ ***5.*** Has had any one of the following:

(a) Practical training of at least 600 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

Sec. 30. NRS 644.206 is hereby amended to read as follows:

644.206 The Board shall admit to examination for a license as a demonstrator of cosmetics any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;

2. Is of good moral character;

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States;***

4. Has completed a course provided by the Board relating to sanitation; and

~~[4.]~~ ***5.*** Except as otherwise provided in NRS 622.090, has received a score of not less than 75 percent on the examination administered by the Board.

Sec. 31. NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;

2. Is of good moral character;

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States;***

4. Has successfully completed the 10th grade in school or its equivalent; and

~~[4.]~~ ***5.*** Has received a minimum of 900 hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

Sec. 32. NRS 644.220 is hereby amended to read as follows:

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than $75 and not more than $200.

(b) For examination as an electrologist, not less than $75 and not more than $200.

(c) For examination as a hair designer, not less than $75 and not more than $200.

(d) ***For examination as a hair braider, $110.***

(e) For examination as a nail technologist, not less than $75 and not more than $200.

~~[(e)]~~ ***(f)*** For examination as an aesthetician, not less than $75 and not more than $200.

~~[(f)]~~ ***(g)*** For examination as an instructor of aesthetics, hair designers, cosmetology or nail technology, not less than $75 and not more than $200.

~~[. The]~~

2. Except as otherwise provided in this subsection, the fee for each reexamination is not less than $75 and not more than $200.

~~[2.]~~ ***The fee for reexamination as a hair braider is $110.***

3. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is $75.

~~[3.]~~ ***4.*** Each applicant referred to in subsections 1 and ~~[2]~~ ***3*** shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 33. NRS 644.260 is hereby amended to read as follows:

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** nail technologist, demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his or her fitness to practice that occupation of cosmetology; and
2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

Sec. 34. NRS 644.300 is hereby amended to read as follows:

644.300 Every licensed nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his or her place of business, as designated in the records of the Board, notify the Secretary of the Board of the new place of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

Sec. 35. NRS 644.310 is hereby amended to read as follows:

644.310 ~~[Upon]~~ ***Except as otherwise provided in section 8 of this act, upon*** application to the Board, accompanied by a fee of $200, a person currently licensed in any branch of cosmetology under the laws of another state or territory of the United States or the District of Columbia may, without examination, unless the Board sees fit to require an examination, be granted a license to practice the occupation in which the applicant was previously licensed upon proof satisfactory to the Board that the applicant:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed a nationally recognized written examination in this State or in the state or territory or the District of Columbia in which he or she is licensed.
5. ~~[4.]~~ Is currently licensed in another state or territory or the District of Columbia.

Sec. 36. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** nail technologist, demonstrator of cosmetics and instructor expires:

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses ***, other than initial licenses as a hair braider,*** issued for less than 1 1/2 years.

3. Except as otherwise provided in this section, the fee for an initial license as a hair braider is $70. The fee for an initial license as a hair braider issued by the Board for:

(a) At least a portion of 1 month but less than 6 months is $17.50.

(b) Six months or more but less than 12 months is $35.00.

(c) Twelve months or more but less than 18 months is $52.50.

Sec. 37. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;
(b) Made on or before the date for renewal specified by the Board;
(c) Accompanied by the fee for renewal; and
(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) ***For hair braiders, $70.***

(c) For instructors, not less than $60 and not more than $100.

~~[(c)]~~ ***(d)*** For cosmetological establishments, not less than $100 and not more than $200.

~~[(d)]~~ ***(e) For establishments for hair braiding, $70.***

(f) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for ***an establishment for hair braiding,*** a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, ***hair braider,*** aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 ½ inches. The name and address of the applicant must be written on the back of each photograph.

5. Before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, ***hair braider,*** aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control in a professional course or seminar approved by the Board.

Sec. 38. NRS 644.330 is hereby amended to read as follows:

644.330 1. A nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his or her license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his or her license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor who has retired from practice for more than 4 years may have his or her license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

Sec. 39. NRS 644.350 is hereby amended to read as follows:

644.350 1. The license of every cosmetological establishment expires ~~[:~~

~~(a) If the last name of the owner begins with the letter "A" through the letter "M," on the date of birth of the owner in the next succeeding odd-numbered year.~~

~~(b) If the last name of the owner begins with the letter "N" through the letter "Z," on the date of birth of the owner in the next succeeding even-numbered year.~~

~~2. If a cosmetological establishment has more than one owner, the Board shall designate one of the owners whose last name will be used for the purpose of determining the date of expiration of the license of the cosmetological establishment.~~

~~3.]~~ ***2 years after the date of issuance or renewal of the license.***

2. If a cosmetological establishment fails to pay the required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 40. NRS 644.380 is hereby amended to read as follows:

644.380 1. Any person desiring to conduct a school of cosmetology in which any one or any combination of the occupations of cosmetology are taught must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain proof of the particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker. The forms must be accompanied by:

(a) A detailed floor plan of the proposed school;

(b) The name, address and number of the license of the manager or person in charge and of each instructor;

(c) Evidence of financial ability to provide the facilities and equipment required by regulations of the Board and to maintain the operation of the proposed school for 1 year;

(d) Proof that the proposed school will commence operation with an enrollment of not less than 25 bona fide students;

(e) The annual fee for a license; ~~[and]~~

(f) ***A copy of the contract for the enrollment of a student in a program at the school of cosmetology; and***

(g) The name and address of the person designated to accept service of process.

2. Upon receipt by the Board of the application, the Board shall, before issuing a license, determine whether the proposed school:

(a) Is suitably located.

(b) Contains at least 5,000 square feet of floor space and adequate equipment.

(c) ***Has a contract for the enrollment of a student in a program at the school of cosmetology that is approved by the Board.***

(d) Meets all requirements established by regulations of the Board.

3. The annual fee for a license for a school of cosmetology is not less than $500 and not more than $800.

4. If the ownership of the school changes or the school moves to a new location, the school may not be operated until a new license is issued by the Board.

5. After a license has been issued for the operation of a school of cosmetology, the licensee must obtain the approval of the Board before making any changes in the physical structure of the school.

Sec. 41. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of ***an establishment for hair braiding,*** a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, ***hair braider,*** electrologist, instructor, nail technologist, demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410 ~~[.]~~ ***and section 13 of this act.***

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed $2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 42. NRS 644.472 is hereby amended to read as follows:

644.472 1. Except as otherwise provided in subsection 2, it is unlawful for any animal to be on the premises of a licensed ***establishment for hair braiding or*** cosmetological establishment.

2. An aquarium may be maintained on the premises of a licensed ***establishment for hair braiding or*** cosmetological establishment.

Sec. 43. NRS 644.383 is hereby repealed.

Sec. 44. The provisions of this act apply to contracts entered into on or after July 1, 2011.

Sec. 45. ~~[Each school of cosmetology licensed before July 1, 2011, before entering into a contract for the enrollment of a student in a program at the school of cosmetology, shall obtain the Board's approval of the contract. Thereafter, any revisions to the approved contract must be approved in accordance with section 6 of this act.]~~ **(Deleted by amendment.)**

Sec. 46. 1. The State Board of Cosmetology shall:

(a) On July 1, 2011, begin issuing licenses:

(1) To practice as a hair braider; and

(2) To operate an establishment for hair braiding.

(b) On or before July 1, 2011, adopt any regulations that the Board determines are necessary to enable the Board to begin issuing the licenses described in paragraph (a) on July 1, 2011.

2. As used in this section:

(a) "Establishment for hair braiding" has the meaning ascribed to it in section 3 of this act.

(b) "Hair braider" has the meaning ascribed to it in section 4 of this act.

(c) "Hair braiding" has the meaning ascribed to it in section 5 of this act.

Sec. 47. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks, including, without limitation, the approval of contracts, as needed to carry out the provisions of this act; and

2. On July 1, 2011, for all other purposes.

TEXT OF REPEALED SECTION

644.383 Surety bond.

1. The owner of each school of cosmetology shall post with the Board a surety bond executed by the applicant as principal and by a surety company as surety. If the license for the school was issued:

(a) On or before June 30, 2005, the bond must be in the amount of $10,000; or

(b) On or after July 1, 2005, except as otherwise provided in subsections 6 and 7, the bond must be in the amount determined by the Board pursuant to subsections 2 to 5, inclusive.

2. The amount of the bond required for a school of cosmetology pursuant to paragraph (b) of subsection 1 is the total of the amounts of the bonds for all of the programs offered by the school, except that:

(a) The total amount determined pursuant to subsections 3, 4 and 5 must be rounded down to the nearest $5,000; and

(b) The amount of the bond required for the school must not be less than $10,000 or more than $400,000.

3. Except as otherwise provided in subsection 4, the amount of the bond for a program at a school of cosmetology is equal to the cost to be paid by a student for the program multiplied by the number of students who will enroll in the program each year.

4. If the length of a program at a school of cosmetology is less than 1 year, the amount of the bond for that program is equal to the amount determined pursuant to subsection 3 divided by 52 and multiplied by the number of whole or partial weeks in the program.

5. Except as otherwise provided in subsection 2, the amount of the bond required for a school of cosmetology pursuant to paragraph (b) of subsection 1 must be reduced to 12 percent of the total of the amounts calculated pursuant to subsections 3 and 4 if the school participates in:

(a) Any program of student assistance pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et. seq.; or

(b) Any other program administered by the United States Department of Education through which students at the school receive loans.

6. If a school of cosmetology has been licensed for not less than 5 years, the Board shall set the amount of the bond required pursuant to paragraph (b) of subsection 1 for the school:

(a) In the amount of $10,000, if the Board did not receive any valid complaints against the school during the immediately preceding 5 years;

(b) In an amount not less than $10,000 and not more than the amount calculated pursuant to subsections 2 to 5, inclusive, if the Board received one or more valid complaints against the school during the immediately preceding 5 years and the Board determines that each such complaint was a complaint of a minor violation of the provisions of this chapter or of any regulations adopted pursuant to this chapter; and

(c) In the amount calculated pursuant to subsections 2 to 5, inclusive, if the Board received one or more valid complaints against the school during the immediately preceding 5 years and the Board determines that any such complaint was a complaint of a major violation of the provisions of this chapter or any regulations adopted pursuant thereto.

7. The bond required for a school of cosmetology must be in the amount of $10,000 if the school:

(a) Is initially licensed on or before June 30, 2005;

(b) Has been continuously licensed since June 30, 2005; and

(c) Is relocated and obtains a license for the new location on or after July 1, 2005.

8. The bond must be in the form approved by the Board and must be conditioned upon compliance with the provisions of this chapter and upon faithful compliance with the terms and conditions of any contracts, verbal or written, made by the school to furnish instruction to any person. The bond must be to the State of Nevada in favor of every person who pays or deposits money with the school as payment for instruction. A bond continues in effect until notice of termination is given by registered or certified mail to the Board, and every bond must set forth this fact.

9. A person claiming to be injured or damaged by an act of the school may maintain an action in any court of competent jurisdiction on the bond against the school and the surety named therein, or either of them, for refund of tuition paid. Any judgment against the principal or surety in any such action must include the costs thereof and those incident to the bringing of the action, including a reasonable attorney's fee. The aggregate liability of the surety to all such persons may not exceed the sum of the bond.

10. The Board shall adopt regulations defining the terms "minor violation" and "major violation" for the purposes of subsection 6.

SHIRLEY BREEDEN	MAGGIE CARLTON
ALLISON COPENING	KELVIN ATKINSON
JOE HARDY	TOM GRADY
Senate Conference Committee	*Assembly Conference Committee*

Senator Breeden moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 193.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 136, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 693 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 5, which is attached to and hereby made a part of this report.

"SUMMARY—Revises provisions governing ~~[credits for offenders sentenced for certain crimes.]~~ **criminal laws.** (BDR 16-634)"

"AN ACT relating to ~~[offenders;]~~ **criminal laws;** revising provisions governing credits for offenders sentenced for certain crimes; **revising provisions governing the sealing and removal of certain records;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence

until the offender becomes eligible for parole and from the maximum term imposed by the sentence, except in certain circumstances. (NRS 209.4465) ~~[This]~~ **Section 1 of this** bill adds to the exceptions that an offender who has been convicted of being a habitual criminal or a habitual felon may not have credits applied to both the minimum and maximum term imposed by the sentence. ~~[This bill]~~ **Section 1** further provides that an offender convicted of a category B felony also qualifies to have certain credits deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence, except in certain circumstances.

Existing law authorizes a person arrested for alleged criminal conduct to petition for the sealing of all records relating to the arrest if the charges were dismissed or the person was acquitted of the charges. (NRS 179.255) Section 1.3 of this bill authorizes such a person to petition for the sealing of all records relating to an arrest if the prosecuting attorney declines to prosecute the charges.

Existing law also provides that a person arrested, or issued a citation or a warrant, for alleged criminal conduct may apply to the Central Repository for Nevada Records of Criminal History to remove the record of criminal history if the charge was dismissed, acquittal was entered or the disposition of the charge was favorable to the accused. (NRS 179A.160) Section 1.7 of this bill authorizes such a person to apply to have the record of criminal history removed if the prosecuting attorney declined to prosecute the charges.

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

Section 1. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:

(a) For the period the offender is actually incarcerated pursuant to his or her sentence;

(b) For the period the offender is in residential confinement; and

(c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

➥ a deduction of 20 days from his or her sentence for each month the offender serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, 60 days.

(b) For earning a high school diploma, 90 days.

(c) For earning his or her first associate degree, 120 days.

3. The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, program for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. Except as otherwise provided in subsection 8, credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

(a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is punishable as a felony; ~~[or]~~

(d) ***Being a habitual criminal pursuant to NRS 207.010, a habitual felon pursuant to NRS 207.012 or a habitually fraudulent felon pursuant to NRS 207.014; or***

(e) ~~[A]~~ ***Except as otherwise provided in subsection 9, a*** category A or B felony,

➥ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

9. Credits earned by an offender who has been convicted of a category B felony apply to eligibility for parole, must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence if the offender:

(a) Has not been convicted of an offense listed in paragraphs (a) to (d), inclusive, of subsection 8;

(b) Has not served three or more separate terms of imprisonment for three separate felony convictions in this State;

(c) Has not served five or more separate terms of imprisonment for five separate felony convictions, regardless of the jurisdiction in which the offender was convicted;

(d) Is not serving a sentence for which an additional penalty was imposed for the use of a firearm pursuant to NRS 193.165; and

~~[(d)]~~ ***(e) Is not serving a sentence for violating the provisions of NRS 202.360.***

Sec. 1.3. **NRS 179.255 is hereby amended to read as follows:**

179.255 1. If a person has been arrested for alleged criminal conduct and the charges are dismissed ***, the prosecuting attorney having jurisdiction declined prosecution of the charges*** or such person is acquitted of the charges, the person may petition:

(a) The court in which the charges were dismissed, at any time after the date the charges were dismissed; ~~[or]~~

(b) ***The court having jurisdiction in which the charges were declined for prosecution, at any time after 180 days after the date of the declination; or***

(c) The court in which the acquittal was entered, at any time after the date of the acquittal,

➥ for the sealing of all records relating to the arrest and the proceedings leading to the dismissal ***, declination*** or acquittal.

2. If the conviction of a person is set aside pursuant to NRS 458A.240, the person may petition the court that set aside the conviction, at any time after the conviction has been set aside, for the sealing of all records relating to the setting aside of the conviction.

3. A petition filed pursuant to subsection 1 or 2 must:

(a) Be accompanied by a current, verified record of the criminal history of the petitioner received from the local law enforcement agency of the city or county in which the petitioner appeared in court;

(b) Include a list of any other public or private agency, company, official and other custodian of records that is reasonably known to the petitioner to have possession of records of the arrest and of the proceedings leading to the dismissal ***, declination*** or acquittal and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

4. Upon receiving a petition pursuant to subsection 1, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the charges were dismissed ***, declined for prosecution*** or the acquittal was entered in a district court or justice court, the prosecuting attorney for the county; or

(b) If the charges were dismissed ***, declined for prosecution*** or the acquittal was entered in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

5. Upon receiving a petition pursuant to subsection 2, the court shall notify:

(a) If the conviction was set aside in a district court or justice court, the prosecuting attorney for the county; or

(b) If the conviction was set aside in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

6. If, after the hearing on a petition submitted pursuant to subsection 1, the court finds that there has been an acquittal ***, that the prosecution was declined*** or that the charges were dismissed and there is no evidence that further action will be brought against the person, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal ***, declination*** or dismissal which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

7. If, after the hearing on a petition submitted pursuant to subsection 2, the court finds that the conviction of the petitioner was set aside pursuant to NRS 458A.240, the court may order sealed all records relating to the setting aside of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

8. If the prosecuting attorney having jurisdiction previously declined prosecution of the charges and the records of the arrest have been sealed, the prosecuting attorney may subsequently file the charges at any time before the running of the statute of limitations for those charges. If such charges are filed with the court, the court shall order the inspection of the records without the prosecuting attorney having to petition the court pursuant to NRS 179.295.

Sec. 1.5. **NRS 179.295 is hereby amended to read as follows:**

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section ***, subsection 8 of NRS 179.255*** and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or a similar offense and that there is sufficient evidence reasonably to conclude that the person will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 for a conviction of another offense.

Sec. 1.7. **NRS 179A.160 is hereby amended to read as follows:**

179A.160 1. If a person has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct and the person is acquitted of the charge or the disposition of the charge is favorable to the person, at any time after the charge is dismissed, acquittal is entered or disposition of the charge in favor of the person is final, the person who is the subject of a record of criminal history relating to the arrest, citation or warrant may apply in writing to the Central Repository and the agency which maintains the record to have it removed from the files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a person.

2. ***If a person has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct and the prosecuting attorney having jurisdiction declined prosecution, at any time after 180 days after the declination, the person who is the subject of a***

record of criminal history relating to the arrest, citation or warrant may apply in writing to the Central Repository and the agency which maintains the record to have it removed from the files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a person.

3. The Central Repository and the agency shall remove the record unless:

(a) The defendant is a fugitive;

(b) The case is under active prosecution according to a current certificate of a prosecuting attorney;

(c) The disposition of the case was a deferred prosecution, plea bargain or other similar disposition;

(d) The person who is the subject of the record has a prior conviction for a felony or gross misdemeanor in any jurisdiction in the United States; or

(e) The person who is the subject of the record has been arrested for or charged with another crime, other than a minor traffic violation, since the arrest, citation or warrant which the person seeks to have removed from the record.

~~[3.]~~ ***4.*** This section does not restrict the authority of a court to order the deletion or modification of a record in a particular cause or concerning a particular person or event.

Sec. 2. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 1 of this act must be applied:

1. Retroactively to January 1, 2005, to reduce the minimum term of imprisonment of an offender described in subsections 8 and 9 of NRS 209.4465, as amended by section 1 of this act, who was placed in the custody of the Department of Corrections before January 1, 2012, and who remains in such custody on January 1, 2012.

2. Retroactively to January 1, 2011, to reduce the maximum term of imprisonment of an offender who was placed on parole before January 1, 2012.

3. In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on January 1, 2012, and for all offenders who are on parole commencing on January 1, 2012.

Sec. 3. This act becomes effective on January 1, 2012.

VALERIE WIENER	WILLIAM HORNE
SHIRLEY BREEDEN	JASON FRIERSON
MIKE MCGINNESS	SCOTT HAMMOND
Senate Conference Committee	*Assembly Conference Committee*

Senator Wiener moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 136.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Schneider, Breeden and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 99.

President Krolicki appointed Senators Breeden, Copening and Settelmeyer as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 168.

President Krolicki appointed Senators Schneider, Copening and Settelmeyer as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 294.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Assembly Bill No. 282 be taken from Unfinished Business and placed on Unfinished Business for the next legislative day.

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 12:04 a.m.

SENATE IN SESSION

At 1:14 a.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 5, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 71.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 219, 405, 484, 561.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 5; Assembly Concurrent Resolution No. 12.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 12.

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

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 71.

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

Motion carried.

Assembly Bill No. 219.

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

Motion carried.

Assembly Bill No. 405.

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

Motion carried.

Assembly Bill No. 484.

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

Motion carried.

Assembly Bill No. 561.

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

Motion carried.

UNFINISHED BUSINESS
REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 136, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 811 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 11, which is attached to and hereby made a part of this report.

"SUMMARY—Revises certain provisions governing financial ~~[institutions.]~~ **organizations.** (BDR 55-737)"

"AN ACT relating to financial ~~[institutions;]~~ **organizations;** revising provisions governing the period that a bank may hold certain real property; removing provisions requiring a bank annually to charge off a certain percentage of the value of certain real property held by the bank and acquired as a result of a debt owed to the bank; revising provisions governing the review of certain applications for licensure by the Commissioner of Financial Institutions; revising provisions relating to the control of a retail trust company; revising provisions governing the assets which certain trust companies are required to maintain; revising provisions governing applications for a license to operate a retail trust company; authorizing certain persons to appeal certain decisions of the Commissioner; **revising the period after which certain property is presumed to be abandoned;** requiring the State Controller to develop and operate with financial institutions a data-match system for the collection of certain debts owed to the State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a bank to hold real property that the bank acquires through the collection of debts owed to it for up to 10 years, and **section 1** of this bill reduces that period to 5 years, except that a bank may request an extension of that period from the Commissioner of Financial Institutions of not more than 5 years. Existing law also requires a bank to charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage if so required by the Commissioner. (NRS 662.015) **Section 1** removes the requirement that a bank annually charge off a certain percentage of the value of such real property.

Existing law charges the Commissioner with certain duties and responsibilities related to retail trust companies, including investigating companies that apply for licensure as a retail trust company, issuing licenses to qualified companies to operate as a retail trust company and removing from office an officer, director, manager or employee of a retail trust company for certain conduct. (NRS 657.180, 669.085, 669.090, 669.130, 669.150, 669.160, 669.281) **Section 3** of this bill requires the Commissioner to consider certain criteria related to the potential long-term success of a trust company before approving the company's application for licensure to operate as a retail trust company. **Section 4** of this bill requires a person who intends to obtain control of a retail trust company to submit an application for licensure to the Commissioner. **Section 7** of this bill requires the Commissioner to provide to an applicant for licensure as a retail trust company written notice of any grounds for denial of an application and authorizes the applicant to cure any defect or deficiency in the application and resubmit the application within a certain period. **Section 8** of this bill provides that a person who is removed from office by the Commissioner may appeal his or her removal from office within a certain period.

Existing law requires a retail trust company to maintain at least 50 percent of its required stockholders' equity in cash, unless the Commissioner approves a different amount, with the remaining amount to be held in the form of readily marketable securities or certain other assets that may be approved by the Commissioner. Existing law also requires a noncustodial trust company to maintain 50 percent of its required minimum capital in cash. (NRS 669.100) **Section 6** of this bill requires a retail trust company to maintain a certain amount of its required stockholders' equity in the form of cash or certain cash equivalents and authorizes a retail trust company to hold the remaining amount of the required stockholders' equity in the form of readily marketable securities or certain other assets upon the approval of the Commissioner. **Section 6** further requires that bonds or other evidence of indebtedness held by a retail trust company as part of its required stockholders' equity meet certain investment standards. **Section 6** also requires a noncustodial trust company to maintain 25 percent of its required minimum capital in the form of cash.

Section 8.5 of this bill reduces from 3 years to 2 years the period after which unclaimed property is presumed to be abandoned property if the holder of the property reported holding more than $10 million in property presumed abandoned on the most recent report filed by the holder.

Section 10 of this bill requires the State Controller to develop and operate a system for matching data to collect outstanding debts owed to the State. Financial institutions in this State must provide to the State Controller information on persons who maintain accounts at the financial institution and are identified by the State Controller as owing outstanding debts to the State. Financial institutions are then required to encumber **certain** assets held in the financial institution by the debtors to pay their debts.

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

Section 1. NRS 662.015 is hereby amended to read as follows:

662.015 1. In addition to the powers conferred by law upon private corporations and limited-liability companies, a bank may:

(a) Exercise by its board of directors, managers or authorized officers and agents, subject to law, all powers necessary to carry on the business of banking by:

(1) Discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of indebtedness;

(2) Receiving deposits;

(3) Buying and selling exchange, coin and bullion; and

(4) Loaning money on personal security or real and personal property.

➥ At the time of making loans, banks may take and receive interest or discounts in advance.

(b) Adopt regulations for its own government not inconsistent with the Constitution and laws of this State.

(c) Issue, advise and confirm letters of credit authorizing the beneficiaries to draw upon the bank or its correspondents.

(d) Receive money for transmission.

(e) Establish and become a member of a clearinghouse association and pledge assets required for its qualification.

(f) Exercise any authority and perform all acts that a national bank may exercise or perform, with the consent and written approval of the Commissioner. The Commissioner may, by regulation, waive or modify a requirement of Nevada law if the corresponding requirement for national banks is eliminated or modified.

(g) Provide for the performance of the services of a bank service corporation, such as data processing and bookkeeping, subject to any regulations adopted by the Commissioner.

(h) Unless otherwise specifically prohibited by federal law, sell annuities if licensed by the Commissioner of Insurance.

2. A bank may purchase, hold and convey real property:

(a) As is necessary for the convenient transaction of its business, including furniture and fixtures, with its banking offices and for future site expansion. This investment must not exceed, except as otherwise provided in this section, 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures. The Commissioner may authorize any bank

located in a city whose population is more than 10,000 to invest more than 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures, in its banking offices, furniture and fixtures.

(b) As is mortgaged to it in good faith by way of security for loans made or money due to the bank.

(c) As is permitted by NRS 662.103.

3. This section does not prohibit any bank from holding, developing or disposing of any real property it may acquire through the collection of debts due it. ~~[Any]~~ ***Except as otherwise provided in subsection 4,*** real property acquired through the collection of debts due it may not be held for longer than ~~[10]~~ ***5*** years. It must be sold at private or public sale within 30 days thereafter. ~~[During the time that the bank holds the real property, the bank shall charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage per year as the Commissioner may require.]~~

4. A bank may request and the Commissioner may grant an extension of the period described in subsection 3 of not more than 5 years. The Commissioner shall not grant a bank more than one extension of the period prescribed in subsection 3 for any real property held by the bank.

Sec. 2. NRS 669.083 is hereby amended to read as follows:

669.083 1. A retail trust company licensed in this State shall maintain its principal office in this State.

2. The conditions for a retail trust company to fulfill the requirements of subsection 1 include, but are not limited to:

(a) A verifiable physical office in this State that conducts such business operations in this State as are necessary to administer trusts in this State;

(b) The presence of an employee that is a resident of Nevada in the principal office who has experience that is satisfactory to the Commissioner in accepting and administering trusts;

(c) Maintenance of originals or true copies of all material business records and accounts of the retail trust company which may be accessed and are readily available for examination by the Division of Financial Institutions;

(d) Maintenance of ***any cash as a portion of*** the required ~~[cash portion of the]~~ stockholders' equity pursuant to NRS 669.100 in accounts with one or more banks or other financial institutions located in this State;

(e) The provision of services to residents of this State consistent with the business plan provided by the trust company with its license application; and

(f) Such other conditions that the Commissioner may ***reasonably*** require to protect the public interest.

Sec. 3. NRS 669.085 is hereby amended to read as follows:

669.085 1. ~~[The Commissioner may conduct a pre-opening examination of a retail trust company and, in]~~ ***In*** rendering a decision on an application for a license as a retail trust company, ***the Commissioner shall*** consider:

(a) The proposed market or markets to be served and, if they extend outside of this State, any exceptional risk, examination or supervision concerns associated with such markets;

(b) Whether the proposed organizational and capital structure and the amount of initial capital appear adequate in relation to the proposed business and market or markets, including, without limitation, the average level of assets under management and administration projected for each of the first 3 years of operation;

(c) ~~[Whether the anticipated volume and nature of business indicate a reasonable probability of success and profitability based on the market or markets proposed to be served;~~

~~(d)]~~ Whether the proposed officers and directors or managers of the proposed retail trust company, as a group, have sufficient experience, ability, standing and competence and whether each individually has sufficient trustworthiness and integrity to justify a belief that the proposed retail trust company will be free from improper or unlawful influence and otherwise will operate in compliance with the law and applicable fiduciary duties and that success of the proposed retail trust company is reasonably probable;

~~[(e)]~~ ***(d)*** Whether any investment services to trusts, estates, charities, employee benefit plans and other fiduciary accounts or to natural persons, partnerships, limited-liability companies and

other entities, including, without limitation, providing investment advice with or without discretion or selling investments in or investment products of affiliated or nonaffiliated persons, will be conducted in compliance with all applicable fiduciary standards, including, without limitation, NRS 164.700 to 164.775, inclusive, the duty of loyalty and disclosure of material information;

~~[(f)]~~ ***(e)*** Whether the proposed retail trust company will be exempt from registration under the Investment Advisers Act of 1940, 15 U.S.C. § 80b-1 et seq., and any similar state laws in each state where it would otherwise be required to register and, if not, whether it will comply with such registration requirements before commencing business and thereafter will comply with all federal and state laws and regulations applicable to it, its employees and representatives as a registrant under such laws;

~~[(g)]~~ ***(f)*** Whether the proposed retail trust company will obtain suitable annual audits by qualified outside auditors of its books and records and its fiduciary activities under applicable account rules and standards as well as suitable internal audits; and

~~[(h)]~~ ***(g)*** Any other factors that the Commissioner may ***reasonably*** require.

2. The Commissioner may require a retail trust company to maintain capital in excess of the minimum required either initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the retail trust company's business plan or any other circumstances revealed in the application, the Commissioner's investigation of the application or any examination of or filing by the retail trust company thereafter, including any examination before the opening of the retail trust company for business. In making such a determination, the Commissioner may consider:

(a) The nature and type of business proposed to be conducted by the retail trust company;

(b) The nature and liquidity of assets proposed to be held in its own account;

(c) The amount of fiduciary assets projected to be under management or under administration of the retail trust company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of fiduciary duties and degree of discretion proposed to be undertaken by the retail trust company;

(f) The competence and experience of proposed management of the retail trust company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence or absence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The existence and adequacy of insurance proposed to be obtained by the retail trust company for the purpose of protecting its fiduciary assets;

(k) The success of the retail trust company in achieving the financial projections submitted with its licensing application;

(l) The fulfillment by the retail trust company of its representations and its descriptions of its business structures and methods and management set forth in its licensing application; and

(m) Any other factor that the Commissioner may require.

Sec. 4. NRS 669.087 is hereby amended to read as follows:

669.087 1. A license issued pursuant to this chapter is not transferable or assignable ~~[. Upon]~~ ***, but upon*** approval of the Commissioner, a licensee may merge or consolidate with, or transfer its assets and control to, another entity that has been issued a license under this chapter. In making a determination regarding whether to grant such approval, the Commissioner may consider the factors set forth in paragraphs (a) to (m), inclusive, of subsection 2 of NRS 669.085.

2. If there is a change in control of any retail trust company, the chief executive officer or managing member of the retail trust company shall report the fact and the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A retail trust company shall, within 5 business days after there is a change in the chief executive officer, managing member or a majority of the directors or managing directors of the retail trust company, report the change to the Commissioner. The retail trust company shall include in its report a statement of the past and current business and professional affiliations of

each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.

4. A person who ~~[acquires]~~ ***intends to acquire*** control ~~[as a result of a change of control]~~ of a retail trust company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation ***pursuant to NRS 669.160*** to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to ~~[transact the business of a]~~ ***control the*** trust company in a manner which protects the interests of the general public.

5. The retail trust company with which the applicant described in subsection 4 is affiliated shall pay the nonrefundable cost of the investigation as the Commissioner requires. If the Commissioner denies the application, the Commissioner may forbid or limit the applicant's participation in the business of the trust company.

6. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of a retail trust company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, a retail trust company.

Sec. 5. NRS 669.092 is hereby amended to read as follows:

669.092 1. It is unlawful for any retail trust company licensed in this State to engage in trust company business at any office outside this State without the prior approval of the Commissioner.

2. Before the Commissioner will approve a branch to be located in another state, the retail trust company must:

(a) Obtain from that state a license as a trust company; or

(b) ~~[Meet]~~ ***Provide proof satisfactory to the Commissioner that the retail trust company has met*** all the requirements to do business as a trust company at an office in that state ~~[.]~~, ***including, without limitation, written documentation from the appropriate state agency that the retail trust company is authorized to do business in that state.***

Sec. 6. NRS 669.100 is hereby amended to read as follows:

669.100 1. No retail trust company may be organized or operated with a stockholders' equity of less than $1,000,000, or in such greater amount as may be required by the Commissioner. The full amount of the initial stockholders' equity must be paid in cash, exclusive of all organization expenses, before the trust company is authorized to commence business.

2. A retail trust company shall maintain at least ~~[50]~~ ***25*** percent of its required stockholders' equity in cash ~~[unless the Commissioner approves a smaller amount.]~~ ***and at least an additional 25 percent of its required stockholders' equity in cash or cash equivalents comprising certificates of deposit, money market funds or other insured deposits. Cash equivalents held by a retail trust company pursuant to this subsection may, upon prior approval by the Commissioner, comprise investments in treasury bills, government obligations or commercial paper which, if acquired after October 1, 2011, must mature not later than 3 months after the date of acquisition by the retail trust company. Any certificate of deposit, money market fund, insured deposit, commercial paper, treasury bill or government obligation, other than an obligation of the United States or an obligation guaranteed by the United States, that is held as a cash equivalent by a retail trust company pursuant to this subsection must not exceed 10 percent of the total required stockholders' equity at the time the cash equivalent is purchased.*** The remaining ~~[50 percent]~~ ***amount*** of ~~[its]~~ ***the retail trust company's*** required stockholders' equity may be a different form of readily marketable securities **,** or with prior approval by the Commissioner **,** other liquid, secure asset, bond, surety or insurance, or some combination of the foregoing. ***Any bond or other evidence of indebtedness held by a retail trust company pursuant to this subsection must have an investment grade credit rating and must have received a rating within one of the top three rating categories of Moody's Investors Service, Inc. or Standard and Poor's Ratings Services.***

3. Any grandfathered trust company other than a noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

(1) By October 1, 2010, $500,000;
(2) By October 1, 2011, $750,000; and
(3) By October 1, 2012, $1,000,000; and

(b) Maintain ~~[$500,000]~~ ***25 percent*** of such minimum capital in cash on and after October 1, 2010.

4. Any noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

(1) By October 1, 2010, $350,000;
(2) By October 1, 2011, $400,000; and
(3) By October 1, 2012, $500,000; and

(b) Maintain ~~[50]~~ ***25*** percent of such minimum capital in cash on and after October 1, 2010.

5. As used in this section, "in cash" means in depository accounts with one or more banks in this State.

Sec. 7. NRS 669.160 is hereby amended to read as follows:

669.160 1. Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That the persons who will serve as directors or officers of the corporation, or the managers or members acting in a managerial capacity of the limited-liability company, as applicable:

(1) Have a good reputation for honesty, trustworthiness and integrity and display competence to transact the business of a trust company in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Have not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(3) Have not made a false statement of material fact on the application.

(4) Have not been an officer or member of the board of directors for an entity which had a license issued pursuant to the provisions of this chapter that was suspended or revoked within the 10 years immediately preceding the date of the application, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.

(5) Have not been an officer or member of the board of directors for a company which had a license as a trust company which was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of the application, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.

(6) Have not violated any of the provisions of this chapter or any regulation adopted pursuant to the provisions of this chapter.

(b) That the financial status of the directors and officers of the corporation or the managers or members acting in a managerial capacity of the limited-liability company is consistent with their responsibilities and duties.

(c) That the name of the proposed company complies with the provisions of NRS 657.200.

(d) That the initial stockholders' equity is not less than the required minimum.

(e) That the applicant has retained the employee required by paragraph (b) of subsection 2 of NRS 669.083.

2. ~~[Notice]~~ ***After an investigation by the Commissioner pursuant to subsection 1, if the Commissioner finds any defect or deficiency in an application for licensure which would constitute grounds for denial of the application, written notice of such grounds for denial must be served personally or sent by certified mail to the applicant. The Commissioner shall allow the applicant an opportunity to cure any defect or deficiency in the application and, not later than 30 days after receipt of the notice of denial, to resubmit the application for approval.***

3. If a defect or deficiency in an application is not cured pursuant to subsection 2, written notice of the entry of an order refusing a license to a trust company must be ~~[given in writing,]~~ served personally or sent by certified mail to the company affected. The company, upon application, is entitled to a hearing before the Commissioner, but if no such application is made within 30 days after the entry of an order refusing a license to any company, the Commissioner shall enter a final order.

~~[3.]~~ ***4.*** The order of the Commissioner is final for the purposes of judicial review.

Sec. 8. NRS 669.281 is hereby amended to read as follows:

669.281 ***1.*** The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any retail trust company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the retail trust company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.

2. An officer, director, manager or employee of a retail trust company who is removed from office pursuant to subsection 1 may appeal his or her removal by filing a written request for a hearing with the Commissioner within 10 days after the effective date of his or her removal. The Commissioner shall conduct the hearing after providing at least 5 days' written notice to the retail trust company and the officer, director, manager or employee who is removed from office. Within 5 days after the hearing, the Commissioner shall enter an order affirming or disaffirming the removal of the person from office. An order of the Commissioner entered pursuant to this subsection is final for the purposes of judicial review.

Sec. 8.5. **NRS 120A.500 is hereby amended to read as follows:**

120A.500 1. Except as otherwise provided in ~~[subsection 6,]~~ ***subsections 6 and 7,*** property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) A traveler's check, 15 years after issuance;

(b) A money order, 7 years after issuance;

(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) Except as otherwise provided in NRS 120A.520, any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;

(i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1, ~~[1]~~ ***or 7, as applicable,*** the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

6. The following property clearly designated as such must not be presumed abandoned because of inactivity or failure to make a demand:

(a) An account or asset managed through a guardianship;

(b) An account blocked at the direction of a court;

(c) A trust account established to address a special need;

(d) A qualified income trust account;

(e) A trust account established for tuition purposes;

(f) A trust account established on behalf of a client; and

(g) An account or fund established to meet the costs of burial.

7. For property described in paragraphs (c), (d), (e), (f) and (n) of subsection 1, the 3-year period described in each of those paragraphs must be reduced to a 2-year period if the holder of the property reported more than $10 million in property presumed abandoned on the holder's most recent report of abandoned property made pursuant to NRS 120A.560.

Sec. 9. NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, ***State Controller,*** district attorney, Department of Taxation, Director of the Department of Health and Human Services, Administrator of the Securities Division of the Office of the Secretary of State, public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain the customer's financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460 ~~.~~ ***or section 10 of this act.***

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

Sec. 10. Chapter 353C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Controller shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible.

2. In addition to any other remedy provided for in this chapter, the State Controller may use the system for matching data developed and operated pursuant to subsection 1 to collect a debt, plus any applicable penalties and interest.

3. A financial institution in this State shall:

(a) Cooperate with the State Controller in carrying out the provisions of subsection 1.

(b) Use the system to provide to the State Controller for each calendar quarter the name, address of record, social security number or other number assigned for taxpayer identification of each person who maintains an account at the financial institution, as identified by the State Controller by name and social security number or other number assigned for taxpayer identification.

(c) In response to the receipt from the State Controller of notification of debt that a person owes the State, encumber ~~*[all assets of the person held by the financial institution]*~~ ***on behalf of the State Controller a portion of the assets of the person held by the financial institution sufficient to cover the debt and surrender those assets to the State Controller. A financial institution is not required to encumber or surrender any assets received by the financial institution on behalf of the person after the financial institution received the notice of the debt from the State Controller.***

4. A financial institution may not be held liable in any civil or criminal action for:

(a) Any disclosure of information to the State Controller pursuant to this section.

(b) Encumbering or surrendering any assets held by the financial institution pursuant to this section.

(c) Any other action taken in good faith to comply with the requirements of this section.

5. If a court issues an order to return to a person any assets surrendered by a financial institution pursuant to subsection 3, the State Controller is not liable to the person for any of those assets that have been provided to the State Controller in accordance with the order for the payment of a debt.

6. All information provided to the State Controller by a financial institution pursuant to this section is confidential and may only be used by the State Controller for use in the collection of a debt owed to the State.

7. As used in this section, "financial institution" has the meaning ascribed to it in NRS 239A.030.

Sec. 11. This act becomes effective upon passage and approval.

MICHAEL SCHNEIDER	MARCUS CONKLIN
ALLISON COPENING	IRENE BUSTAMANTE ADAMS
JAMES SETTELMEYER	PAT HICKEY
Senate Conference Committee	*Assembly Conference Committee*

Senator Schneider moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 136.

Remarks by Senator Schneider.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 268, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 833 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 8, which is attached to and hereby made a part of this report.

"SUMMARY—Revises provisions relating to public works. (BDR 28-740)"

"AN ACT relating to public works; revising provisions relating to preferences when competing for contracts for certain public works projects; requiring a contractor to replace an unacceptable subcontractor on a public work of this State without an increase in the amount of the bid; requiring a prime contractor to forfeit a portion of the amount of a contract for a public work under certain circumstances; revising the manner in which a construction manager at risk may solicit bids and select a subcontractor for a public work; revising provisions governing the selection of a construction manager at risk for preconstruction services and the construction of a public work; revising the manner in which a construction manager at risk may solicit bids and select a subcontractor for a public work; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a contract for a public work involving a design-build team is awarded by a public body based on the application of certain criteria. A design-build team may qualify for a preference in bidding on such a contract if the contractor on the design-build team has submitted proof to the State Contractors' Board that the contractor has paid certain taxes to the State for the past 5 years. (NRS 338.1389, 338.147, 338.1727, 408.3886)

Section 2 of this bill allows a person who holds a certificate of registration to engage in the practice of architecture or landscape architecture or who holds a license as a professional engineer or professional land surveyor to qualify for a preference when competing for public works if the person has submitted proof to the appropriate licensing board that the person has paid certain taxes to the State for the past 3 years. **Sections 26 and 31** of this bill allow a design-build team to receive a preference in selection as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Sections 28 and 32** of this bill allow a design-build team that has been selected as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway to receive a preference in selection for a contract only if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Section 33** of this bill allows an architect,

professional engineer or professional land surveyor to receive a preference in selection for certain public works if the architect, professional engineer or professional land surveyor possesses a certificate of eligibility to receive a preference when competing for public works.

Existing law provides that a public body which selects a design-build team as a finalist in the selection process for a contract for a public work must make public specified information concerning the design-build team and its selection. (NRS 338.1725) **Section 31** of this bill adds a similar requirement for the Department of Transportation to make public specified information concerning a design-build team and the selection of that design-build team as a finalist in the selection process for a contract for a project for the construction, reconstruction or improvement of a highway. **Section 16** of this bill requires that a public body must, after selecting but before entering into a contract with a design professional who is not a member of a design-build team, transmit certain information concerning the selection of the design profession to the licensing board that regulates the design professional. That licensing board must post the information on its Internet website.

Before a contract for a public work of this State is awarded, existing law requires a contractor to replace a subcontractor that is named in the contractor's bid for the contract if the subcontractor is not properly licensed or has been disqualified from participating in public works sponsored by the State Public Works Board. (NRS 338.13895) **Section 12** of this bill requires the contractor to replace such a subcontractor without an increase in the amount of the bid. This same requirement currently applies with respect to the replacement of a subcontractor named in a bid for a contract for a public work of a local government if the subcontractor is not properly licensed. (NRS 338.13895)

Under existing law, a contractor is required to list in his or her bid for a public work the names of certain subcontractors who will be performing work on the public work if the contractor is awarded the contract. Existing law sets forth requirements with which a prime contractor who is awarded the contract must comply to substitute a subcontractor for another subcontractor. (NRS 338.141) If a prime contractor does not comply with the requirements related to the substitution of subcontractors, **section 13** of this bill requires the prime contractor to forfeit 1 percent of the contract amount as a penalty.

Existing law also requires a contractor to include his or her name on a bid for a public work if, as the prime contractor, the contractor will perform a portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work. (NRS 338.141) **Section 13** of this bill requires a prime contractor to forfeit a specified amount as a penalty if the prime contractor substitutes a subcontractor to perform the work that the prime contractor indicated on the bid that the prime contractor or another subcontractor would perform.

In order for a subcontractor to be eligible to provide materials, equipment, work or other services on a public work for which a construction manager at risk was awarded a contract, existing law requires the subcontractor to be licensed and to be selected based on a process of competitive bidding set forth for all subcontractors on any public work in the State. (NRS 338.1699) **Sections 4 and 5** of this bill changes the manner in which a construction manager at risk selects subcontractors and sets forth specific procedures a construction manager at risk must follow when selecting subcontractors to provide materials, equipment, work or other services on a public work for which the construction manager at risk was awarded a contract.

Existing law authorizes a public body to construct a public work by selecting a construction manager at risk and sets forth certain procedures the public body must follow when selecting the construction manager at risk and entering into a contract with him or her for preconstruction services or to construct the public work. (NRS 338.169-338.1699) **Sections 8-22** of this bill amend the provisions governing the way in which a public body must select a construction manager at risk. Existing law provides for a two-step selection process, wherein construction managers at risk must first submit a statement of qualifications, and then the public body selects finalists who are requested to submit final proposals and are interviewed before one is chosen to be awarded the contract. (NRS 338.1692-338.1695) Instead, **sections 20 and 21** of this bill change the process to a single step: a construction manager at risk submits a proposal from the start, which contains a combination of the statement of qualifications and any material existing law required to be included in a final proposal, and the public body chooses which applicants to interview and which to select from those proposals. **Section 22** of this bill allows a public body

to enter into negotiations with the construction manager at risk who is providing the preconstruction services for the construction of a portion of the public work as soon as that portion of the design is finalized instead of waiting until the complete design is finished, as is currently required by existing law. In addition, **section 22** allows the construction manager at risk providing preconstruction services to bid on the project if negotiations for the contract fail and the public body opens it up for bids.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***1. The State Board of Architecture, Interior Design and Residential Design shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of architecture pursuant to the provisions of chapter 623 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of registration to engage in the practice of architecture in this State:***

(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than $1,500 for each consecutive 12-month period for 36 months immediately preceding the submission of the affidavit from the certified public accountant; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of architecture that:

(1) Satisfies the requirements of NRS 623.350; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

2. The State Board of Landscape Architecture shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to the provisions of chapter 623A of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of registration to engage in the practice of landscape architecture in this State:

(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than $1,500 for each consecutive 12-month period for 36 months immediately preceding the submission of the affidavit from the certified public accountant; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of landscape architecture that:

(1) Satisfies the requirements of NRS 623A.250; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

3. The State Board of Professional Engineers and Land Surveyors shall issue a certificate of eligibility to receive a preference when competing for public works to a professional engineer or professional land surveyor who is licensed pursuant to the provisions of chapter 625 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the professional engineer or professional land surveyor has, while licensed as a professional engineer or professional land surveyor in this State:

(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than $1,500 for each consecutive 12-month period for 36 months immediately preceding the submission of the affidavit from the certified public accountant; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in engineering or land surveying that:

(1) Satisfies the requirements of NRS 625.407; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

4. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 1, paragraph (a) of subsection 2 and paragraph (a) of subsection 3, a person shall be deemed to have paid:

(a) The excise tax imposed upon an employer by NRS 363B.110 by an affiliate or parent company of the person, if the affiliate or parent company also satisfies the requirements of NRS 623.350, 623A.250 or 625.407, as applicable; and

(b) The excise tax imposed upon an employer by NRS 363B.110 by a joint venture in which the person is a participant, in proportion to the amount of interest the person has in the joint venture.

5. A design professional who has received a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 must, at the time for the renewal of his or her professional license or certificate of registration, as applicable, pursuant to chapter 623, 623A or 625 of NRS, submit to the applicable licensing board an affidavit from a certified public accountant setting forth that the design professional has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 1, paragraph (a) of subsection 2 or paragraph (a) of subsection 3, as applicable, to maintain eligibility to hold such a certificate.

6. A design professional who fails to submit an affidavit to the applicable licensing board pursuant to subsection 5 ceases to be eligible to receive a preference when competing for public works unless the design professional reapplies for and receives a certificate of eligibility pursuant to subsection 1, 2 or 3, as applicable.

7. If a design professional holds more than one license or certificate of registration, the design professional must submit a separate application for each license or certificate of registration pursuant to which the design professional wishes to qualify for a preference when competing for public works. Upon issuance, the certificate of eligibility to receive a preference when competing for public works becomes part of the design professional's license or certificate of registration for which the design professional submitted the application.

8. If a design professional who applies to a licensing board for a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 submits false information to the licensing board regarding the required payment of taxes, the design professional is not eligible to receive a preference when competing for public works for a period of 5 years after the date on which the licensing board becomes aware of the submission of the false information.

9. The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall adopt regulations and may assess reasonable fees relating to their respective certification of design professionals for a preference when competing for public works.

10. A person or entity who believes that a design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works may challenge the validity of the certificate by filing a written objection with the public body which selected, for the purpose of providing services for a public work, the design professional who holds the certificate. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works; and

(b) Be filed with the public body not later than 3 business days after:

(1) The date on which the public body makes available to the public pursuant to subsection 3 of NRS 338.1725 the information required by that subsection, if the design-build team of which the design profession who holds the certificate is a part was selected as a finalist pursuant to NRS 338.1725;

(2) The date on which the Department of Transportation makes available to the public pursuant to subsection 3 of NRS 408.3885 the information required by that subsection, if the design-build team of which the design professional who holds the certificate is a part was selected as a finalist pursuant to NRS 408.3885; or

(3) The date on which the licensing board which issued the certificate to the design professional posted on its Internet website the information required by subsection 3 of

NRS 338.155, if the design professional is identified in that information as being selected for a contract governed by NRS 338.155.

11. If a public body receives a written objection pursuant to subsection 10, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the design professional qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 3. *1. Notwithstanding the provisions of sections 4 and 5 of this act, and subject to the provisions of subsection 2, if a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS 338.1693, the construction manager at risk may enter into a contract with a subcontractor licensed pursuant to chapter 624 of NRS to provide any of the following preconstruction services, the basis of payment for which is a negotiated price:*

(a) Assisting the construction manager at risk in identifying and selecting materials and equipment to be provided by each subcontractor;

(b) Assisting the construction manager at risk in creating a schedule for the provision of labor, materials or equipment by each subcontractor;

(c) For the purpose of enabling the construction manager at risk to establish a budget for the construction of the public work, estimating the cost of labor, materials or equipment to be provided by each subcontractor; and

(d) Providing recommendations to the construction manager at risk regarding the design for the public work, as the design pertains to the labor, materials or equipment to be provided by each subcontractor.

2. A subcontractor may not provide preconstruction services pursuant to this section in an area of work outside the field or scope of the license of the subcontractor.

Sec. 4. *1. To be eligible to provide labor, materials or equipment on a public work, the contract for which a public body has entered into with a construction manager at risk pursuant to NRS 338.1696, a subcontractor must be:*

(a) Licensed pursuant to chapter 624 of NRS; and

(b) Qualified pursuant to the provisions of this section to submit a proposal for the provision of labor, materials or equipment on a public work.

2. Subject to the provisions of subsections 3, 4 and 5, the construction manager at risk shall determine whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment on the public work for the purposes of paragraph (b) of subsection 1.

3. After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to apply to qualify to submit a meaningful and responsive proposal for the provision of labor, materials or equipment on the public work, and not later than 21 days before the date by which such an application must be submitted, the construction manager at risk shall advertise for such applications in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

4. The criteria to be used by the construction manager at risk when determining whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment must include, and must be limited to:

(a) The monetary limit placed on the license of the applicant by the State Contractors' Board pursuant to NRS 624.220;

(b) The financial ability of the applicant to provide the labor, materials or equipment required on the public work;

(c) Whether the applicant has the ability to obtain the necessary bonding for the work required by the public body;

(d) The safety programs established and the safety records accumulated by the applicant;

(e) Whether the applicant has breached any contracts with a public body or person in this State or any other state during the 5 years immediately preceding the application;

(f) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the public work;

(g) The performance history of the applicant concerning other recent, similar public or private contracts, if any, completed by the applicant in Nevada;

(h) The principal personnel of the applicant;

(i) Whether the applicant has been disqualified from the award of any contract pursuant to NRS 338.017 or 338.13895; and

(j) The truthfulness and completeness of the application.

5. The public body or its authorized representative shall ensure that each determination made pursuant to subsection 2 is made subject to the provisions of subsection 4.

6. The construction manager at risk shall notify each applicant and the public body in writing of a determination made pursuant to subsection 2.

7. A determination made pursuant to subsection 2 that an applicant is not qualified may be appealed pursuant to NRS 338.1381 to the public body with whom the construction manager at risk has entered into a contract for the construction of the public work.

Sec. 5. *1. If a public body enters into a contract with a construction manager at risk for the construction of a public work pursuant to NRS 338.1696, the construction manager at risk may enter into a subcontract for the provision of labor, materials and equipment necessary for the construction of the public work only as provided in this section.*

2. The provisions of this section apply only to a subcontract for which the estimated value is at least 1 percent of the total cost of the public work.

3. After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to submit a meaningful and responsive proposal, and not later than 21 days before the date by which a proposal for the provision of labor, materials or equipment by a subcontractor must be submitted, the construction manager at risk shall notify in writing each subcontractor who was determined pursuant to section 4 of this act to be qualified to submit such a proposal of a request for such proposals. A copy of the notice required pursuant to this subsection must be provided to the public body.

4. The notice required pursuant to subsection 3 must include, without limitation:

(a) A description of the design for the public work and a statement indicating where a copy of the documents relating to that design may be obtained;

(b) A description of the type and scope of labor, equipment and materials for which subcontractor proposals are being sought;

(c) The dates on which it is anticipated that construction of the public work will begin and end;

(d) The date, time and place at which a preproposal meeting will be held;

(e) The date and time by which proposals must be received, and to whom they must be submitted;

(f) The date, time and place at which proposals will be opened for evaluation;

(g) A description of the bonding and insurance requirements for subcontractors;

(h) Any other information reasonably necessary for a subcontractor to submit a responsive proposal; and

(i) A statement in substantially the following form:

Notice: For a proposal for a subcontract on the public work to be considered:

1. The subcontractor must be licensed pursuant to chapter 624 of NRS;

2. The proposal must be timely received;

3. The subcontractor must attend the preproposal meeting; and

4. The subcontractor may not modify the proposal after the date and time the proposal is received.

5. A subcontractor may not modify a proposal after the date and time the proposal is received.

6. To be considered responsive, a proposal must:

(a) Be timely received by the construction manager at risk; and

(b) Substantially and materially conform to the details and requirements included in the proposal instructions and for the finalized bid package for the public work, including, without limitation, details and requirements affecting price and performance.

7. The opening of the proposals must be attended by an authorized representative of the public body and the architect or engineer responsible for the design of the public work but is not otherwise open to the public.

8. At the time the proposals are opened, the construction manager at risk shall compile and provide to the public body or its authorized representative a list that includes, without limitation, the name and contact information of each subcontractor who submits a timely proposal and the price of the proposal submitted by the subcontractor. The list must be made available to the public upon request.

9. Not less than 10 working days after opening the proposal, the construction manager at risk shall:

(a) Evaluate the proposals and determine which proposals are responsive.

(b) Select the subcontractor who submits the proposal that the construction manager at risk determines is the best proposal. The subcontractor must be selected from among those:

(1) Who attended the preproposal meeting;

(2) Who submitted a responsive proposal; and

(3) Whose names are included on the list compiled and provided to the public body or its authorized representative pursuant to subsection 8.

(c) Inform the public body or its authorized representative which subcontractor has been selected.

10. The public body or its authorized representative shall ensure that the evaluation of proposals and selection of subcontractors are done pursuant to the provisions of this section and regulations adopted by the State Public Works Board.

11. A subcontractor selected pursuant to subsection 9 need not be selected by the construction manager at risk solely on the basis of lowest price.

12. Except as otherwise provided in subsection 13, the construction manager at risk shall enter into a subcontract with a subcontractor selected pursuant to subsection 9 to provide the labor, materials or equipment described in the request for proposals.

13. A construction manager at risk shall not substitute a subcontractor for any subcontractor selected pursuant to subsection 9 unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or

(b) The substitution is approved by the public body after the selected subcontractor:

(1) Files for bankruptcy or becomes insolvent;

(2) After having a reasonable opportunity, fails or refuses to execute a written contract with the construction manager at risk which was offered to the selected subcontractor with the same general terms that all other subcontractors on the project were offered;

(3) Fails or refuses to perform the subcontract within a reasonable time;

(4) Is unable to furnish a performance bond and payment bond pursuant to NRS 339.025, if required for the public work; or

(5) Is not properly licensed to provide that labor or portion of the work.

14. The construction manager at risk shall make available to the public, including, without limitation, each subcontractor who submits a proposal, the final rankings of the subcontractors and shall provide, upon request, an explanation to any subcontractor who is not selected of the reasons why the subcontractor was not selected.

15. If a public work is being constructed in phases, and a construction manager at risk selects a subcontractor pursuant to subsection 9 for the provision of labor, materials or equipment for any phase of that construction, the construction manager at risk may select that

subcontractor for the provision of labor, materials or equipment for any other phase of the construction without following the requirements of subsections 3 to 11, inclusive.

Sec. 6. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive;

(c) NRS 338.169 to ~~[338.1699,]~~ ***338.16985,*** inclusive ~~[,]~~ ***, and sections 3, 4 and 5 of this act;*** or

(d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 ~~[, 338.169 to 338.1699, inclusive,]~~ and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 7. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive;

(c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or

(d) NRS 338.1711 to 338.1727, inclusive ~~[,]~~ ***, and section 2 of this act.***

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 8. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive;

(c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or

(d) NRS 338.1711 to 338.1727, inclusive, and section 2 of this act.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 , ***338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act*** and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 9. ~~[NRS 338.1373 is hereby amended to read as follows:~~

~~338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:~~

~~(a) NRS 338.1377 to 338.139, inclusive;~~

~~(b) NRS 338.143 to 338.148, inclusive;~~

~~(c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or~~

~~(d) NRS 338.1711 to 338.1727, inclusive . [, and section 2 of this act.]~~

~~2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.]~~ **(Deleted by amendment.)**

Sec. 10. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 ***or section 4 of this act*** or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing

with the State Public Works Board or the local government, the Board or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the Board or local government. At least 10 days before the date set for the hearing, the Board or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the Board or governing body may:

(a) Administer oaths;

(b) Take testimony;

(c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;

(d) Require the production of related books, papers and documents; and

(e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The Board or governing body shall issue a decision on the matter during the hearing. The decision of the Board or governing body is a final decision for purposes of judicial review.

Sec. 11. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to ~~[338.1699,]~~ ***338.16985,*** inclusive ~~]~~**,** ***and sections 3, 4 and 5 of this act.***

Sec. 12. NRS 338.13895 is hereby amended to read as follows:

338.13895 1. The State Public Works Board shall not award a contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of the person's license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of the work, or who, at the time of the bid, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376,

➥ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor ~~]~~ ***with no increase in the amount of the contract or bid.***

2. A local government awarding a contract for a public work shall not award the contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of the person's license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of work,

➥ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor with no increase in the amount of the contract ~~[.]~~ ***or bid.***

3. If, after awarding the contract, but before commencement of the work, the public body or its authorized representative discovers that the person to whom the contract was awarded is not licensed, or that the contract would exceed the person's license, the public body or its authorized representative shall rescind the award of the contract and may accept the next lowest bid for that public work from a responsive bidder who was determined by the public body or its authorized representative to be a qualified bidder pursuant to NRS 338.1379 or 338.1382 without requiring that new bids be submitted.

Sec. 13. NRS 338.141 is hereby amended to read as follows:

338.141 1. Except as otherwise provided in NRS 338.1727, each bid submitted to a public body for any public work to which paragraph (a) of subsection 1 of NRS 338.1385 or paragraph (a) of subsection 1 of NRS 338.143 applies, must include:

(a) If the public body provides a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide such labor or portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work; or

(b) If the public body does not provide a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid. If the bid is submitted pursuant to this paragraph, within 2 hours after the completion of the opening of the bids, the contractors who submitted the three lowest bids must submit a list containing the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 1 percent of the prime contractor's total bid or $50,000, whichever is greater, and the number of the license issued to the first tier subcontractor pursuant to chapter 624 of NRS.

2. The lists required by subsection 1 must include a description of the labor or portion of the work which each first tier subcontractor named in the list will provide to the prime contractor.

3. A prime contractor shall include his or her name on a list required by paragraph (a) ***or (b)*** of subsection 1 if ***, as*** the prime contractor ***, the prime contractor*** will perform any of the work required to be listed pursuant to paragraph (a) ***or (b)*** of subsection 1.

4. Except as otherwise provided in this subsection, if a contractor:

(a) Fails to submit the list within the required time; or

(b) Submits a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376,

➥ the contractor's bid shall be deemed not responsive. A contractor's bid shall not be deemed not responsive on the grounds that the contractor submitted a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376 if the contractor, before the award of the contract, provides an acceptable replacement subcontractor in the manner set forth in subsection 1 or 2 of NRS 338.13895.

5. A ***prime*** contractor ~~[whose bid is accepted]~~ shall not substitute a subcontractor for any subcontractor who is named in the bid, unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change.

(b) The substitution is approved by the public body or its authorized representative. The substitution must be approved if the public body or its authorized representative determines that:

(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;

(2) The named subcontractor files for bankruptcy or becomes insolvent;

(3) The named subcontractor fails or refuses to perform his or her subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025; or

(4) The named subcontractor is not properly licensed to provide that labor or portion of the work.

(c) If the public body awarding the contract is a governing body, the public body or its authorized representative, in awarding the contract pursuant to NRS 338.1375 to 338.139, inclusive:

(1) Applies such criteria set forth in NRS 338.1377 as are appropriate for subcontractors and determines that the subcontractor does not meet that criteria; and

(2) Requests in writing a substitution of the subcontractor.

6. ***If a prime contractor substitutes a subcontractor for any subcontractor who is named in the bid without complying with the provisions of subsection 5, the prime contractor shall forfeit, as a penalty to the public body that awarded the contract, an amount equal to 1 percent of the total amount of the contract.***

7. If a ***prime*** contractor ~~[indicates]~~ ***indicated*** pursuant to subsection ~~[1]~~ ***3*** that he or she ~~[will]~~ *would* perform a portion of work on the public work and ~~[thereafter requests to substitute]~~ ***, after the submission of the bid, substitutes*** a subcontractor to perform such work, the ***prime*** contractor shall ~~[provide to the public body a written explanation in the form required by the public body which contains the reasons that:~~

~~(a) A subcontractor was not originally contemplated to be used on that portion of the public work; and~~

~~(b) The substitution is in the best interest of the public body.~~

~~7.]~~ ***forfeit as a penalty to the public body that awarded the contract, the lesser of, and excluding any amount of the contract that is attributable to change orders:***

(a) An amount equal to 2.5 percent of the total amount of the contract; or

(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the prime contractor indicated pursuant to subsection 3 that he or she would perform on the public work.

8. As used in this section:

(a) "First tier subcontractor" means a subcontractor who contracts directly with a prime contractor to provide labor, materials or services for a construction project.

(b) "General terms" means the terms and conditions of a contract that set the basic requirements for a public work and apply without regard to the particular trade or specialty of a subcontractor, but does not include any provision that controls or relates to the specific portion of the public work that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

Sec. 14. NRS 338.142 is hereby amended to read as follows:

338.142 1. A person who bids on a contract may file a notice of protest regarding the awarding of the contract with the authorized representative designated by the public body within 5 business days after the date the ~~[bids were opened]~~ ***recommendation to award a contract is issued*** by the public body or its authorized representative.

2. The notice of protest must include a written statement setting forth with specificity the reasons the person filing the notice believes the applicable provisions of law were violated.

3. A person filing a notice of protest may be required by the public body or its authorized representative, at the time the notice of protest is filed, to post a bond with a good and solvent surety authorized to do business in this state or submit other security, in a form approved by the public body, to the public body who shall hold the bond or other security until a determination is

made on the protest. A bond posted or other security submitted with a notice of protest must be in an amount equal to the lesser of:

(a) Twenty-five percent of the total value of the bid submitted by the person filing the notice of protest; or

(b) Two hundred fifty thousand dollars.

4. A notice of protest filed in accordance with the provisions of this section operates as a stay of action in relation to the awarding of any contract until a determination is made by the public body on the protest.

5. A person who makes an unsuccessful bid may not seek any type of judicial intervention until the public body has made a determination on the protest and awarded the contract.

6. Neither a public body nor any authorized representative of the public body is liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who makes a bid, whether or not the person files a notice of protest pursuant to this section.

7. If the protest is upheld, the bond posted or other security submitted with the notice of protest must be returned to the person who posted the bond or submitted the security. If the protest is rejected, a claim may be made against the bond or other security by the public body in an amount equal to the expenses incurred by the public body because of the unsuccessful protest. Any money remaining after the claim has been satisfied must be returned to the person who posted the bond or submitted the security.

Sec. 15. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.

(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to ~~[338.1699,]~~ ***338.16985,*** inclusive ~~[.]~~ ***, and sections 3, 4 and 5 of this act.***

Sec. 16. NRS 338.155 is hereby amended to read as follows:

338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

(a) Must set forth:

(1) The specific period within which the public body must pay the design professional.

(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).

(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).

(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

(e) Except as otherwise provided in this paragraph, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.

3. ***A public body shall not enter into a contract with a design professional who is not a member of a design-build team for the provision of services in connection with a public work until 3 days after the public body has transmitted the information relating to the selection of the design professional to the licensing board that regulates the design professional, including, without limitation, the name of the public body, the name of the design professional, whether the design professional possesses a certificate of eligibility to receive a preference when competing for public works and a brief description of the project and services the design professional was selected for, and the licensing board has posted such information on its Internet website. A licensing board shall post any information received pursuant to this subsection within 1 business day after receiving such information.***

4. As used in this section, "agents" means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.

Sec. 17. ~~[NRS 338.155 is hereby amended to read as follows:~~

~~338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:~~

~~(a) Must set forth:~~

~~(1) The specific period within which the public body must pay the design professional.~~

~~(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.~~

~~(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).~~

~~(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.~~

~~(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).~~

~~(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.~~

~~(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.~~

~~(e) Except as otherwise provided in this paragraph, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.~~

~~2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.~~

~~3. A public body shall not enter into a contract with a design professional who is not a member of a design-build team for the provision of services in connection with a public work until 3 days after the public body has transmitted the information relating to the selection of the design professional to the licensing board that regulates the design professional, including, without limitation, the name of the public body, the name of the design professional [, whether the design professional possesses a certificate of eligibility to receive a preference when competing for public works] and a brief description of the project and services the design professional was selected for, and the licensing board has posted such information on its Internet website. A licensing board shall post any information received pursuant to this subsection within 1 business day after receiving such information.~~

~~4. As used in this section, "agents" means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.]~~ **(Deleted by amendment.)**

Sec. 18. NRS 338.169 is hereby amended to read as follows:

338.169 A public body may construct a public work by:

1. Selecting a construction manager at risk pursuant to the provisions of NRS 338.1691 to 338.1696, inclusive; and

2. Entering into separate contracts with a construction manager at risk:

(a) For preconstruction services, including, without limitation:

(1) Assisting the public body in determining whether scheduling or ~~[design]~~ ***constructability*** problems exist that would delay the construction of the public work;

(2) Estimating the cost of the labor and material for the public work; and

(3) Assisting the public body in determining whether the public work can be constructed within the public body's budget; and

(b) To construct the public work.

Sec. 19. NRS 338.1691 is hereby amended to read as follows:

338.1691 To qualify to enter into contracts with a public body for preconstruction services and to construct a public work, a construction manager at risk must:

1. Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for ~~[statements of qualifications]~~ ***proposals*** pursuant to NRS 338.1692;

2. Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333;

3. Be licensed as a contractor pursuant to chapter 624 of NRS; and

4. If the project is for the ~~[design]~~ ***construction*** of a public work of the State, be qualified to bid on a public work of the State pursuant to NRS 338.1379.

Sec. 20. NRS 338.1692 is hereby amended to read as follows:

338.1692 1. A public body ***or its authorized representative*** shall advertise for ~~[statements of qualifications]~~ ***proposals*** for a construction manager at risk in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed,

the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

2. A request for ~~[a statement of qualifications]~~ ***proposals*** published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work;

(b) An estimate of the cost of construction;

(c) A description of the work that the public body expects a construction manager at risk to perform;

(d) The dates on which it is anticipated that the separate phases of the preconstruction and construction of the public work will begin and end;

(e) The date by which ~~[statements of qualifications]~~ ***proposals*** must be submitted to the public body;

(f) If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a ~~[statement of qualifications;]~~ ***proposal;***

(g) The name, title, address and telephone number of a person employed by the public body that an applicant may contact for further information regarding the public work; ~~[and]~~

(h) A list of the selection criteria and relative weight of the selection criteria that will be used to evaluate ~~[statements of qualifications.]~~ ***proposals; and***

(i) A notice that the proposed form of the contract to assist in the preconstruction of the public work or to construct the public work, including, without limitation, the terms and general conditions of the contract, is available from the public body.

3. A ~~[statement of qualifications]~~ ***proposal*** must include, without limitation:

(a) An explanation of the experience that the applicant has with projects of similar size and scope ~~[.]~~ ***in both the public and private sectors, including, without limitation, an explanation of the experience that the applicant has in assisting in the design of such projects and an explanation of the experience that the applicant has in such projects in Nevada;***

(b) The contact information for references who have knowledge of the background, character and technical competence of the applicant;

(c) ~~[The applicant's preliminary proposal for managing the preconstruction and construction of the public work;~~

~~(d)]~~ Evidence of the ability of the applicant to obtain the necessary bonding for the work to be required by the public body;

~~[(e)]~~ ***(d)*** Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law; ~~[and]~~

~~[(f)]~~ ***(e)*** A statement of whether the applicant has been:

(1) Found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause ~~[.]~~ ***, during the 5 years immediately preceding the date of the advertisement for proposals;*** and

(2) Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333 ~~[.]~~ ***;***

(f) The professional qualifications and experience of the applicant, including, without limitation, the resume of any employee of the applicant who will be managing the preconstruction and construction of the public work;

(g) The safety programs established and the safety records accumulated by the applicant;

(h) Evidence that the applicant is licensed as a contractor pursuant to chapter 624 of NRS;

(i) The proposed plan of the applicant to manage the preconstruction and construction of the public work which sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(j) If the project is for the design of a public work of the State, evidence that the applicant is qualified to bid on a public work of the State pursuant to NRS 338.1379.

Sec. 21. NRS 338.1693 is hereby amended to read as follows:

338.1693 1. The public body ***or its authorized representative*** shall appoint a panel consisting of at least three members ***, at least two of whom must have experience in the construction industry,*** to rank the ~~[statements of qualifications]~~ ***proposals*** submitted to the

public body by evaluating the ~~[statements of qualifications]~~ ***proposals*** as required pursuant to subsections 2 and 3.

2. The panel shall rank the ~~[statements of qualifications]~~ ***proposals*** by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) ~~[Conducting an evaluation of the qualifications of each applicant based on the factors and relative weight assigned to each factor that the public body specified in the request for statements of qualifications advertised pursuant to NRS 338.1692.]~~ ***Evaluating and assigning a score to each of the proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for proposals.***

3. When ranking the ~~[statements of qualifications,]~~ ***proposals,*** the panel shall assign a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works. ***If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.***

4. After the panel ranks the ~~[statements of qualifications,]~~ ***proposals,*** the public body ***or its authorized representative*** shall ~~[:~~

~~(a) Make available to the public the rankings of the applicants; and~~

~~(b) Except]~~ ***, except*** as otherwise provided in subsection 5, select at least the two but not more than the five applicants ~~[that the panel determined to be most qualified as finalists to submit final proposals to the public body pursuant to NRS 338.1694.]~~ ***whose proposals received the highest scores for interviews. During the interview process, the public body or its authorized representative may require the applicants to submit a preliminary proposed amount of compensation for managing the preconstruction and construction of the public work, but in no event shall the proposed amount of compensation exceed 20 percent of the scoring for the selection of the most qualified applicant. After conducting such interviews, the panel shall rank the applicants by using a ranking process that is separate from the process used to rank proposals pursuant to subsection 2 and is based only on information submitted during the interview process. The score to be given for the proposed amount of compensation, if any, must be calculated by dividing the lowest of all the proposed amounts of compensation by the applicant's proposed amount of compensation multiplied by the total possible points available to each applicant.***

5. If the public body did not receive at least two ~~[statements of qualifications from applicants that the panel determines to be qualified pursuant to this section and NRS 338.1691,]~~ ***proposals,*** the public body may not contract with a construction manager at risk.

6. Upon receipt of the final rankings of the applicants from the panel, the public body or its authorized representative shall enter into negotiations with the most qualified applicant determined pursuant to subsections 2, 3 and 4 for a contract for preconstruction services, unless the public body required the submission of a proposed amount of compensation, in which case the proposed amount of compensation submitted by the applicant must be the amount offered for the contract. If the public body or its authorized representative is unable to negotiate a contract with the most qualified applicant for an amount of compensation that the public body or its authorized representative and the most qualified applicant determine to be fair and reasonable, the public body or its authorized representative shall terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. The public body or its authorized representative shall make available to all applicants and the public the final rankings of the applicants and shall provide, upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.

Sec. 22. NRS 338.1696 is hereby amended to read as follows:

338.1696 1. If a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS ~~[338.1695,]~~ ***338.1693,*** after the public body has finalized the design for the public work, ***or any portion thereof sufficient to determine the***

provable cost of that portion, the public body shall enter into negotiations with the construction manager at risk for a contract to construct the public work ***or the portion thereof*** for the public body for:

(a) The cost of the work, plus a fee, with a guaranteed maximum price;

(b) A fixed price; or

(c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work ~~[.]~~ ***or portion thereof.***

2. If the public body is unable to negotiate a satisfactory contract with the construction manager at risk to construct the public work ~~[,]~~ ***or portion thereof,*** the public body ~~[:~~

~~(a) Shall]~~ ***shall*** terminate negotiations with that applicant ~~[;]~~ and *:*

~~[(b)]~~ ***(a)*** May award the contract for the public work:

(1) If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.

(2) If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive ~~[.]~~ ***; and***

(b) Shall accept a bid to construct the public work from the construction manager at risk with whom the public body entered into a contract for preconstruction services.

Sec. 23. NRS 338.1698 is hereby amended to read as follows:

338.1698 A contract awarded to a construction manager at risk pursuant to NRS ~~[338.1695 or]~~ 338.1696:

1. Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

2. Must specify a date by which performance of the work required by the contract must be completed.

3. May set forth the terms by which the construction manager at risk agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the construction manager at risk.

4. Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.

5. May include such additional provisions as may be agreed upon by the public body and the construction manager at risk.

Sec. 24. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to ~~[338.1699,]~~ ***338.16985,*** inclusive, ***and sections 3, 4 and 5 of this act,*** a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds $100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work ~~[:~~

~~(a) Is the construction of a park and appurtenances thereto, the rehabilitation or remodeling of a public building, or the construction of an addition to a public building; or~~

~~(b) Has]~~ ***has*** an estimated cost which exceeds ~~[$10,000,000.]~~ ***$5,000,000.***

Sec. 25. NRS 338.1718 is hereby amended to read as follows:

338.1718 1. A construction manager as agent:

(a) Must:

(1) Be a contractor licensed pursuant to chapter 624 of NRS;

(2) Hold a certificate of registration to practice architecture, interior design or residential design pursuant to chapter 623 of NRS; or

(3) Be licensed as a professional engineer pursuant to chapter 625 of NRS.

(b) May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent who enters into a contract with a public body pursuant to this section may not ~~[take]~~ ***:***

(1) Take part in the design or construction of the public work ~~[.]~~ ***; or***

(2) Act as an agent of the public body to select a subcontractor if the work to be performed by the subcontractor is part of a larger public work.

2. A contract between a public body and a construction manager as agent is not required to be awarded by competitive bidding.

Sec. 26. NRS 338.1725 is hereby amended to read as follows:

338.1725 1. The public body shall select at least two but not more than four finalists from among the design-build teams that submitted preliminary proposals. If the public body does not receive at least two preliminary proposals from design-build teams that the public body determines to be qualified pursuant to this section and NRS 338.1721, the public body may not contract with a design-build team for the design and construction of the public work.

2. The public body shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 338.1721; ~~[and]~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team; and

(4) The proposed plan of the design-build team to manage the design and construction of the public work that sets forth in detail the ability of the design-build team to design and construct the public work ~~[.]~~ ***; and***

(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.

3. After the selection of finalists pursuant to this section, the public body shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and ~~[the rankings of the design-build teams who submitted preliminary proposals.]~~ ***identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.***

Sec. 27. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to preference in

bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body ~~[~~, ~~at a regularly scheduled meeting,]~~ ***or its authorized representative*** shall ~~[~~:

~~(a) Select the final proposal, using]~~ ***enter into negotiations with the most qualified applicant, as determined pursuant to*** the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected**.** ~~[~~**;** ~~or~~

~~(b) Reject all the final proposals.]~~ ***If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.***

7. If a public body selects a final proposal and awards a design-build contract pursuant to ~~[~~paragraph (a) of~~]~~ subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 28. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of ***both*** a certificate of eligibility to receive a preference in bidding on public works ***by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team,*** and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to ***a*** preference in bidding on public ***works, or a preference when competing for public*** works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body or its authorized representative shall enter into negotiations with the most qualified applicant, as determined pursuant to the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected. If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. If a public body selects a final proposal and awards a design-build contract pursuant to subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 29. NRS 338.485 is hereby amended to read as follows:

338.485 1. A person may not waive or modify a right, obligation or liability set forth in the provisions of NRS 338.400 to 338.645, inclusive.

2. A condition, stipulation or provision in a contract or other agreement that:

(a) Requires a person to waive a right set forth in the provisions of NRS 338.400 to 338.645, inclusive; ~~[or]~~

(b) Relieves a person of an obligation or liability imposed by the provisions of NRS 338.400 to 338.645, inclusive ~~[.]~~ ***;***

(c) Requires a contractor to waive, release or extinguish a claim or right for damages or an extension of time that the contractor may otherwise possess or acquire as a result of a delay that is:

(1) So unreasonable in length as to amount to an abandonment of the public work;

(2) Caused by fraud, misrepresentation, concealment or other bad faith by the public body;

(3) Caused by active interference by the public body; or

(4) Caused by a decision by the public body to significantly add to the scope or duration of the public work; or

(d) Requires a contractor or public body to be responsible for any consequential damages suffered or incurred by the other party that arise from or relate to a contract for a public work, including, without limitation, rental expenses or other damages resulting from a loss of use or availability of the public work, lost income, lost profit, lost financing or opportunity, business or reputation, and loss of management or employee availability, productivity, opportunity or services,

➥ is against public policy and is void ~~[.]~~ ***and unenforceable.***

3. The provisions of subsection 2 do not prohibit the use of a liquidated damages clause which otherwise satisfies the requirements of law.

Sec. 30. NRS 408.3883 is hereby amended to read as follows:

408.3883 1. The Department shall advertise for preliminary proposals for the design and construction of a project by a design-build team in a newspaper of general circulation in this State.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the proposed project;

(b) Separate estimates of the costs of designing and constructing the project;

(c) The dates on which it is anticipated that the separate phases of the design and construction of the project will begin and end;

(d) The date by which preliminary proposals must be submitted to the Department, which must not be less than 30 days after the date that the request for preliminary proposals is first published in a newspaper pursuant to subsection 1; and

(e) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the project may obtain the information necessary to submit a proposal, including, without limitation, the information set forth in subsection 3.

3. The Department shall maintain at the time and place set forth in the request for preliminary proposals the following information for inspection by a design-build team desiring to submit a proposal for the project:

(a) The extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the project that the Department determines to be necessary;

(b) A list of the requirements set forth in NRS 408.3884;

(c) A list of the factors that the Department will use to evaluate design-build teams who submit a proposal for the project, including, without limitation:

(1) The relative weight to be assigned to each factor pursuant to NRS 408.3886; and

(2) A disclosure of whether the factors that are not related to cost are, when considered as a group, more or less important in the process of evaluation than the factor of cost;

(d) Notice that a design-build team desiring to submit a proposal for the project must include with its proposal the information used by the Department to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 408.3885 and a description of that information;

(e) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.1389 or 338.147 ***and whose members who hold a certificate of registration to practice architecture or a license as a professional engineer and who hold a certificate of eligibility to receive a preference when competing for public works issued pursuant to section 2 of this act*** should submit a copy of ~~[the]~~ ***each*** certificate of eligibility with its proposal; and

(f) A statement as to whether a ~~[bidding]~~ design-build team that is selected as a finalist pursuant to NRS 408.3885 but is not awarded the design-build contract pursuant to NRS 408.3886 will be partially reimbursed for the cost of preparing a final proposal or best and final offer, or both, and, if so, an estimate of the amount of the partial reimbursement.

Sec. 31. NRS 408.3885 is hereby amended to read as follows:

408.3885 1. The Department shall select at least three but not more than five finalists from among the design-build teams that submitted preliminary proposals. If the Department does not receive at least three preliminary proposals from design-build teams that the Department determines to be qualified pursuant to this section and NRS 408.3884, the Department may not contract with a design-build team for the design and construction of the project.

2. The Department shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 408.3884; ~~[and]~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team;

(4) The proposed plan of the design-build team to manage the design and construction of the project that sets forth in detail the ability of the design-build team to design and construct the project; and

(5) The degree to which the preliminary proposal is responsive to the requirements of the Department for the submittal of a preliminary proposal ~~.~~ ***; and***

(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.

3. After the selection of finalists pursuant to this section, the Department shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.

Sec. 32. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the possession of ***both*** a certificate of eligibility to receive a preference in bidding on public works ***by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team,*** and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to ***a*** preference in bidding on public works ~~,~~ ***or a preference when competing for public works,*** those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and

constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 33. NRS 625.530 is hereby amended to read as follows:

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, ***and section 2 of this act*** and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed $35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of this chapter or chapter 623 of NRS.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the

competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees. If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him or her, the public agency may terminate negotiations and select another engineer, land surveyor or architect. ***Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a professional engineer, professional land surveyor or registered architect pursuant to this subsection, the public agency shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference when competing for public works. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.***

Sec. 34. NRS 338.1694, 338.1695 and 338.1699 are hereby repealed.

Sec. 35. 1. The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall, before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

2. The State Public Works Board shall, as soon as practicable after the effective date of this section, adopt regulations governing the acts required by subsection 9 of section 5 of this act.

Sec. 36. 1. The State Public Works Board and each local government that awards a contract pursuant to NRS 338.1727, as amended by section 28 of this act, or NRS 408.3886, as amended by section 32 of this act, or selects a professional engineer, professional land surveyor or registered architect pursuant to NRS 625.530, as amended by section 33 of this act, shall, on or before October 1 of the year in which it awards such a contract or makes such a selection, submit to the Director of the Legislative Counsel Bureau a report detailing those contracts and selections on the form prescribed by the Committee on Local Government Finance.

2. Before August 1, 2011, the Committee on Local Government Finance created pursuant to NRS 354.105 shall prescribe a form for the report described in subsection 1, which must include, without limitation:

(a) The total number of contracts and selections described in subsection 1 awarded and made by the State Public Works Board or local government during the year to which the report pertains; and

(b) A description of each such contract or selection, including, without limitation:

(1) The name of the person or entity who was selected or to whom the contract was awarded.

(2) The particular type of goods or services involved in the contract or selection.

(3) The dollar amount of the contract or selection.

(4) Whether the person or entity who was selected or to whom the contract was awarded was awarded the contract or selected as a result of the person or entity possessing a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 of section 2 of this act.

(5) If the person or entity who was selected or to whom the contract was awarded did not possess a certificate for eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 of section 2 of this act, the number of persons or entities that did possess such a certificate that bid on the contract or were considered for selection.

Sec. 37. The provisions of sections 4 and 5 of this act apply only to contracts entered into on or after July 1, 2011.

Sec. 38. 1. This section and sections 1, 3 to 6, inclusive, 10 to 15, inclusive, 18 to 25, inclusive, 27, 29, 34, 35 and 37 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2011, for all other purposes.

2. Sections 2, 7, 16, 26, 28, 30 to 33, inclusive, and 36 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On October 1, 2011, for all other purposes.

3. Section 8 of this act becomes effective on July 1, 2013.

~~[4. Sections 2, 26, 28, 30 to 33, inclusive, and 36 of this act expire by limitation on September 30, 2013.~~

~~5. Sections 9 and 17 of this act become effective on October 1, 2013.]~~

TEXT OF REPEALED SECTIONS

NRS 338.1694 Final proposals: Requests; requirements.

1. After the finalists are selected pursuant to paragraph (b) of subsection 4 of NRS 338.1693, the public body shall provide to each finalist a request for final proposals. The request for final proposals must:

(a) Set forth the date by which final proposals must be submitted to the public body;

(b) Set forth the proposed forms of the contract to assist in the preconstruction of the public work and the contract to construct the public work that include, without limitation, the proposed terms and general conditions of the contracts; and

(c) Set forth the selection criteria and relative weight of the selection criteria that will be used to evaluate the final proposals.

2. A final proposal must include, without limitation:

(a) The professional qualifications and experience of the applicant, including, without limitation, the resumes of any employees of the applicant who will be managing the preconstruction and construction of the public work;

(b) The performance history of the applicant concerning other recent, similar projects completed by the applicant, if any;

(c) The safety programs established and the safety records accumulated by the applicant;

(d) The proposed plan of the applicant to manage the preconstruction and construction of the public work, which plan sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(e) A proposed plan of the applicant for the selection of any necessary subcontractors.

NRS 338.1695 Ranking of applicants based on final proposals and interviews; negotiations with certain applicants for contract for preconstruction services; availability to applicants and public of certain information.

1. The panel appointed by the public body pursuant to NRS 338.1693 shall evaluate and assign a score to each of the final proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for final proposals. The panel shall interview the two or three applicants whose final proposals received the highest scores. After conducting such interviews, the panel shall rank the applicants based on the final proposals and interviews, which must be given equal weight.

2. Upon receipt of the final rankings of the applicants from the panel, the public body shall enter into negotiations with the most qualified applicant determined pursuant to subsection 1 for a contract for preconstruction services. If the public body is unable to negotiate a contract with the most qualified applicant at an amount of compensation that the public body and the most qualified applicant determine to be fair and reasonable, the public body shall terminate negotiations with that applicant. The public body may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached or a determination is made by the public body to reject all applicants.

3. The public body shall make available to the applicants and the public the results of the evaluations of final proposals and interviews conducted pursuant to subsection 1 and the final rankings of the applicants.

NRS 338.1699 Subcontractors on public works for which contractor at risk was awarded contract: Eligibility; submission of list to public body.

1. To be eligible to provide materials, equipment, work or other services on a public work for which a construction manager at risk was awarded a contract pursuant to NRS 338.1696, a subcontractor must be:

(a) Licensed pursuant to chapter 624 of NRS; and

(b) Selected by the construction manager at risk based on the process of competitive bidding set forth in the applicable provisions of NRS 338.1373 to 338.148, inclusive.

2. A construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to NRS 338.1696 shall submit to the public body that awarded the contract a list containing the names of each subcontractor with whom the construction manager at risk intends to enter into a contract for the provision of materials, equipment, work or other services on the public work.

JOHN LEE	MARILYN KIRKPATRICK
MICHAEL SCHNEIDER	RICHARD (SKIP) DALY
JOE HARDY	LYNN STEWART
Senate Conference Committee	*Assembly Conference Committee*

Senator Lee moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 268.

Motion carried by a constitutional majority.

UNFINISHED BUSINESS
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 18, 19, 30, 32, 34, 36, 55, 82, 101, 125, 140, 143, 150, 151, 191, 204, 215, 238, 254, 259, 264, 267, 289, 292, 307, 329, 381, 403, 414, 419, 426, 432, 472; Senate Joint Resolution No. 3; Assembly Bills Nos. 40, 48, 80, 100, 148, 223, 224, 247, 255, 359, 432, 529, 531, 570; Assembly Concurrent Resolution No. 10.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended for former Senator Maurice Washington.

Senator Horsford moved that the Senate adjourn until Monday, June 6, 2011, at 10 a.m.

Motion carried.

Senate adjourned at 1:29 a.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate